

✓ REVISED OPINION SUBMITTED TO COURT^x

110-1
29/12

Gilani did not possess secret document: Army ✓

By Anjali Mody

NEW DELHI, DEC. 23. The Government has been asked to state whether it believes it has a case against the *Kashmir Times* journalist, Iftikar Gilani or not. The Army, whose opinion was to be the deciding factor in the case against him, has said that the document, on the basis of which Mr. Gilani was arrested under the Official Secrets Act, was neither secret nor a threat to national security.

Today, the Director-General Military Intelligence, O.S. Lochab, confirmed in the Chief Metropolitan Magistrate Court here that the Army had given this opinion on Dec. 12, 2002. It was communicated to the Police Commissioner of Delhi, R.S. Gupta, 10 days ago. But, the Home Ministry claimed in court that it had not received the letter. The court has directed the Government to clarify its position in the light of the Army clearance dated Dec. 12 and submit its report on January 3. The Home Ministry, which sanctioned Mr. Gilani's arrest, must now decide whether it has any basis to pursue its case.

Mr. Gilani has spent six months and two weeks in jail for possessing a document that his lawyers had shown the court was published in a journal, which was widely available in State-funded university and institutional libraries in the capital. Yet police maintained that it was "secret". The Army, too, responding to a Home Ministry query on the value of the document, said on June 14 last that it was the work of an enemy agent and that it posed a grave threat to national security. Its reconsi-

dered opinion dated Dec. 12 describes the earlier assessment as "erroneous".

The manner in which the prosecution has pursued the case against Mr. Gilani has raised questions. At the last court hearing on Dec. 12, the prosecution produced a letter from the Home Ministry purporting to be the second opinion from the Army that the court had directed it to procure. It was, in fact, a reproduction of the adverse opinion given by the Army on June 14. The defence presented the court with a copy of the Army's revised opinion dated Dec. 12, which it had procured from the Delhi Police Commissioner's office.

On more than one occasion, the Deputy Prime Minister, L.K. Advani, was petitioned by journalists about the "trumped-up" charges against Mr. Gilani. On more than one occasion, he assured them that Mr. Gilani's release was imminent. Senior Home Ministry officials also indicated, prior to the last hearing, that the Army's revised opinion proved that there was no case against Mr. Gilani. Yet, Mr. Gilani remains incarcerated.

Last week, during the Parliamentary debate on national security, the Rashtriya Janata Dal MP, Raghuvansh Prasad Singh, challenged Mr. Advani to deny that he had given such assurances. Mr. Singh said, "The Home Minister had said we now know that he is innocent, he will get bail, we are giving instructions to that effect. He assured a delegation of journalists that 'we are going to drop the case'. He is sitting in the House, will he deny that he did not meet journalists, that he did not give such assurances." Mr. Advani did not respond.

24 DEC 2002

THE HINDU

Human Rights
119-10

Crimes against women

22/12

By Kuldip Nayar

Women in the countryside are not even aware of their legal rights. But even those who know the law find that ... there is some loophole somewhere that helps the culprits.

MURDER AGAINST women is now committed with impunity — for protest against forced marriage, merely being alone with a man, a glance which may be misconstrued to indicate anything other than an innocent relationship. Then there is "bride-burning". Human rights organisations and women's bodies are more or less helpless. This sounds like a report from some part of India. But this is a dispatch from Pakistan, "where crimes against women are rising alarmingly".

The reason given is that "the prosecution rate is negligible and the men know they can get away with it". How similar is the scenario in our country! Once in a while there is a serious discussion as happened recently when a medical student was raped a few yards from her college in New Delhi and a few hundred yards from the Delhi police headquarters. Parliament was also worked up. The Union Home Minister, L. K. Advani, lent his voice to the demand for death penalty to rapists. Newspapers wrote editorials on the helplessness of women. But as the noise died down, the issue of crimes against women receded into the background.

The Government has made amendments to the decades-old law to see that the victims of rape are not humiliated in court by the arguments that the defence offers. Indeed, it is a rape committed all over again in the open court. But what the bill offers is too little too late. The entire exercise lacks the response the situation demands. NGOs in India have continued to focus attention on rape or bride-burning. But why have they failed to arouse society? Is it because it has been brutalised for such a long period that it has lost the feeling of hurt? After seeing rapists and murderers go scot-free, people have, indeed, become cynical. Nothing shocks them anymore. Society has become insensitive. How to stir its conscience again is the problem facing us.

Women in the countryside are not even aware of their legal rights. But even those who know the law find that even the most horrifying cases take a strange twist by the time they come up for trial. There is some loop-

hole somewhere that helps the culprits. Society does not get as angry as it does on the matter of religion or castes. Wrongs against women fail to evoke indignation even among women. They are too tied to wrong traditions and too used to suffering.

They show all the traits of a patriarchal society where women are often little more than slaves.

One does not have to go back very far. A year ago we faced a crisis over the filming of the plight of widows in Varanasi. Society

was not worried that their lives

were worse than death but got angry when their plight was sought to be narrated through a film. People who at that time said they would force the Government to improve the lot of the widows are nowhere to be seen now. The matter was forgotten as soon as the producer abandoned the project. Why women have to pay the price for male chauvinism or prejudice is apparent — because it is a male-dominated society in India.

The evil of Sati is still eulogised. In one recent incident in Rajasthan many men, some from even the victim's family, were party to the ritual of a widow made to sit on her husband's funeral pyre. The police as usual reacted late. The law fails to stop such practices because it is not deterrent enough. But the worst part is that society does not show anger or horror over such incidents. Somehow the belief persists that tradition sanctifies the practice. Why stick one's neck out? The supporters of Hindutva should try and eliminate such evils instead of planning another Gujarat elsewhere in the country. Any reform has to come from within. But most men are not interested.

Muslim women also suffer the same way. Pakistan has a law under which a man cannot marry when his wife is alive. In India there is no such bar. He can have four wives if he is brazen enough. The Government probably fearing the noise the funda-

mentalists might make hesitates to have a legislation similar to the one in Pakistan and in nearly all Islamic countries. But Muslim leaders should themselves take the initiative and rectify the wrong which is against the spirit of Islam.

During riots women are the worst sufferers. Several inquiry committees have pointed out that they are easy victims because they are unable to escape quickly. Rioters do make them their target. The recent example is

that of Gujarat. In its inquiry report, the Concerned Citizens Tribunal which has done yeoman's service in presenting the ugly and inhuman side of riots has said, "women were unblushingly molested", and Muslim men, women and children, in a travesty of justice, were burnt alive.

Kalpna Kannabiran, a leading social worker, brings to light how the issue of sexual harassment and violence has entered the mainstream discourse in different ways. Masculinity and feminism continue to be constructed in strictly regimented ways with very little space for women students particularly to raise questions of discrimination, harassment or derogatory or obscene representation. In fact, the violence has become increasingly strident, an instance being cited of a campus on the subcontinent where the hundredth rape on the campus was celebrated! The positive side of this is that there is protest and resistance and persistent campaigning by women's groups and small groups of men and women — teachers and students — on campuses, in Delhi and Rajasthan, for example.

The discussion among male students, whether about women or about the right of senior students to services and obeisance from juniors, or about a general policing is by definition violent and involves extreme physical abuse. And masculinity is constructed around the ability to bear

pain, the ability to be an active spectator, the capacity for silence and a firm belief in the patriarchies of age and gender and an utter contempt for any recourse to legitimate redress. The heroes are those that bear all these characteristics. In other words, violence has been institutionalised in the field of education.

Violence is both the subject of law and its context. And violence is always embedded in a social context ridden with unequal power and privilege. While men speak publicly in extremely derogatory sexual terms about women, the opposite is rarely the case. The patriarchy of gender takes precedence over that of age. Silence is often the only recourse. Even this will pass. What happens in the courtroom is mirrored in the classroom, the campus, public spaces and the family. Clearly the law cannot teach us why. Sociology cannot either, on its own. Only feminist sociology can help make sense of this.

Being at the lowest rung of the ladder in society, women suffer the most in all sorts of tragedies, earthquakes, riots and floods. A report by the Concerned Citizens on the Orissa super-cyclone says more women died in the cyclone than men. Men survived the tidal wave in some areas by climbing to high places. In the aftermath of the disaster men migrated to towns in search of work, leaving women in charge of the surviving children and to fend for themselves. The destruction of houses exposed women to severe difficulties.

The worst was that there were hardly any programmes of rehabilitation specially geared towards the needs of women. The women's movement in Orissa is very weak. So there was no voice strong enough to plead their case. There was no definite proposal aimed at assisting the cyclone-affected women. There were many possibilities for designing horticulture and other plantation programmes, rural craft training, animal husbandry and programmes in education, health and sanitation. The poverty eradication programmes could have been reoriented in the context of the cyclone — taking women as the key players. But nothing like that happened. In fact, nothing like that happens anywhere in India.

HUMAN RIGHTS DIARY

Rights abuse rising in Nepal: Amnesty

GOPAL SHARMA

Journalist
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Kathmandu, Dec. 19 (Reuters): Nepal ranks third worldwide in terms of the number of people who have disappeared over the last four years after being detained by its security forces, rights group Amnesty International said today.

Nepal is grimly battling Maoist rebels who want to overthrow its constitutional monarchy, but Amnesty said human rights abuses by both security forces and the rebels have risen since peace talks failed last year.

At least 66 people had "disappeared" in the last year after being detained by security forces, taking total "disappearances" to more than 200 so far, Amnesty said in a statement.

"This makes Nepal the country with the third highest number of 'disappearances' reported worldwide in the past four years."

The EU said in a statement released in Kathmandu it was increasingly concerned about

the deteriorating security... situation in Nepal and violations of human rights and international humanitarian law."

The EU called on the rebels to stop "killings, harassment and destruction" and urged them to begin early talks with the government aimed at ending the revolt.

More than 4,360 people have been killed since the peace talks failed, Amnesty said, adding that "nearly half of the victims of the 'people's war' were civilians targeted for their real or perceived support to the Maoists".

Sweeping powers

Nepal gave its soldiers sweeping search and detention powers under a state of emergency after the rebels attacked security posts across the nation in November last year.

The emergency ended in August but soldiers wield unlimited powers under a new anti-terror law that aims to flush out the rebels, who follow the revolu-

tionary ideas of Mao Zedong, the late Chinese Communist leader.

Amnesty said torture by security forces was reported almost every day in Nepal. "The army systematically held people blindfolded and handcuffed for days, weeks or even months."

An army spokesman denied any rights violations by security forces and said authorities probed all charges of rights abuse.

"There could be some possibility of innocent people getting killed in cross-fire," the spokesman said. "But any allegation of human rights violations that comes to our notice is registered and duly investigated." Amnesty also accused the rebels of rights abuses, saying they had killed about 800 civilians considered "enemies of the revolution", had taken people hostage for ransom and killed security men taken captive.

"The Maoists have also been responsible for recruiting children into their army," Amnesty said.

GUJARAT VIOLENCE / 'IT WAS PLANNED SIX MONTHS AHEAD'

'Law against genocide needed'

By Mahesh Vijapurkar

MUMBAI, NOV. 29. In the absence of any law in the country against genocide, it would be "difficult to have the Gujarat Chief Minister, Narendra Modi, prosecuted in any international court," according to Justice (retd.) P.B. Sawant, a member of the Citizens' Tribunal that studied the Gujarat violence.

His colleague, Justice (retd.) Hosbet Suresh added: "For such trials, there has to be a law in the country where the offence took place." They made out a case for a law against genocide.

The two were responding to media questions after the "third" release of the report 'Crime Against Humanity' prepared by a panel headed by Justice (retd.) V.R. Krishna Iyer of the Supreme Court on the Gujarat carnage — they had already been released in Ahmedabad and Delhi and would be released soon in Hyderabad, Kolkata, Bangalore and Chennai too.

"I do not expect justice from this dispensation," Mr. Sawant said. "Look at the Home Minister (L.K. Advani) who pats this man (Mr. Modi) and I do not expect anything from them."

"But we have asked that a National

Crime Tribunal be set up to investigate and prosecute genocidal killings of the kind that India has seen in the past decades," he said.

Mr. Suresh listed the Mumbai riots of 1992 and the killings of Sikhs in Delhi in 1984 as such crimes. There was a bigger difficulty in having Mr. Modi tried in another country.

"There would be a long procedure and Mr. Modi would have to be extradited." How was this man to be taken there for a trial for genocidal killings? Mr. Modi has been held principally responsible for the deliberate, state-facilitated, assisted violence "post-Godhra."

The official information, the two retired judges said, was that some 850 Muslims were killed and "our information," as Mr. Sawant put it, "is of a higher number". "But we did not list it in the two volumes because it tends to lead to spurts of violence".

However, the panel intends to put it all together — with other details — in the third volume "which would not be distributed to everyone." "The first two volumes containing some 510 pages are being made available to everyone. The third volume would be "given to only those who want it... ask for it."

The panel members said the Godhra incident itself "was spontaneous."

The coach in which people were burnt alive did not come from outside. It was caused from within, but who set it on fire is still a mystery."

But the pattern of violence after Godhra, they said, was planned. "It fits the definition of genocide. It was planned six months ahead".

"Recruits" to the cause were told that "something would happen" and they were prepared for six months, perhaps to coincide with the events in Ayodhya in mid-March. "But it came as a Godsend to them on August 27 itself," Mr. Sawant said.

People had census details with them. They knew which restaurant with a Hindu name was owned and run by a Muslim.

The carnage at Godhra was "spontaneous", but violence across Gujarat was "allowed to happen" because, as the Godhra District Collector said in his deposition, "Mr. Modi decided to shift the bodies" of all those burnt beyond recognition to Ahmedabad for a mass burial.

Thus the problem, which could have been contained at Godhra, was taken to the rest of Gujarat.

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THE HINDU

Restoring rights

By Kuldip Nayar

In Jammu and Kashmir, those under detention on suspicion or for holding another point of view have to be treated differently. Any conciliation process will require their release.

THE JAMMU and Kashmir Chief Minister, Mufti Mohammad Sayeed, was then the Union Home Minister. Insurgency in the Kashmir Valley was at its peak. The newly appointed Governor, Jagmohan, had his own rough and ready methods for countering it. Complaints about human rights violations by the security forces were piling up on the Mufti's table. He was unhappy about one or two points. One, Mr. Jagmohan's heavy hand was bringing him a bad name because Mr. Jagmohan was supposed to be his appointee. Two, the bottled up grievances of the Kashmiris had found an outlet in the shape of militancy that had acquired a Pakistani edge.

"Is there no Tarkunde for the Kashmiris?" the Mufti asked me. Mr. Tarkunde, a retired Mumbai High Court judge, was then chairman of the Citizens for Democracy (CFD), a body founded by Jayaprakash Narayan to seek remedy against the excesses of the authorities. The Mufti said: "You people go all over India, but never to Kashmir. Why don't you find out what is happening there?" Coming from the Home Minister, I was amused by his remark because the security forces were directly under his charge. Mr. Tarkunde led a team and the CFD published the report which was not to the liking of the Government. But it attracted a lot of attention. Pakistan straightaway picked up instances of human rights violations cited in the report for propagation abroad. The Mufti did not have time to discuss the report because the V. P. Singh Government in which he was a Minister did not last long.

All that came to my mind the other day when the Mufti, as the head of the People's Democratic Party-Congress coalition in the State, said that his priority was to assuage the hurt of those who had suffered in the last decade or so. Indeed, a healing touch is required to retrieve the alienated Kashmiris. If the new Government in Srinagar is serious about pursuing human rights violations it should pick up some of the reports prepared by the Tarkunde-headed teams. Sending them to the National Human Rights Commission for processing and suggestions may help the

Mufti. Another report on human rights violations, I recall, was at the instance of Yasin Malik, Hurriyat Conference youth leader. Some years ago, when Mr. Yasin Malik, during his detention, went on a fast unto death at the All-India Institute of Medical Sciences in Delhi, the intelligence men telephoned me at his asking. His demand was that an Amnesty International team visit the Valley and prepare a report on the human rights violations. I asked him why he was insistent on the Amnesty team and why he did not trust the Indians. He broke the fast when I told him that some of us would tour the Valley and report on the conditions obtaining there. Again, Mr. Tarkunde led the team.

Neither Srinagar nor New Delhi ever took notice of the reports, much less any action. There was not even an acknowledgement of the communications we sent to the Home Ministry. However, during the investigation we found top officials in Srinagar (not Delhi) and the Chief Minister, Farooq Abdullah, extremely cooperative and forthcoming. In this respect, the Home Ministry's record under L. K. Advani has been far better. I took up with him the case of an "encounter" in Srinagar where a BSF official had allegedly killed a couple travelling on a scooter. Mr. Advani had ordered an inquiry into the case. Whenever I have written him about Mr. Yasin Malik's health or proper medical care, Mr. Advani has been prompt in his response. He even allowed him to go abroad for medical treatment.

Coming to the release of detenus, there are two categories: those who have committed murder or any other heinous crime will have to face trial. Those under detention on suspicion or for holding another point of view have to be treated differently. Any conciliation process will require their release. The Mufti's poll plank was that his party would apply a balm on

the wounds of the State. It should go ahead. Nonetheless, at some stage, the Mufti will have to set up an inquiry commission comprising retired judges from outside the State to examine the allegations about officers taking the law into their own hands in different cases. He has before him the precedent of Parkash Singh Badal, who after becoming Punjab Chief Minister ordered a judicial review of doubtful encounters. Nearly 150 from the police are still on trial. The NHRC has also identified 550 bodies which were cremated without anyone accounting for them. The State Government has yet to explain their death and the circumstances leading to them.

In a civilised society it is imperative that the basic rights of the people are protected. The police should be accountable for the action they take to maintain law and order. They have no licence to kill. Nor can they be a law unto themselves. Article 21 of the Constitution says, "No person shall be deprived of his life or personal liberty except according to procedure established by law." The Government which came to power after the Emergency — it included Atal Behari Vajpayee and Mr. Advani — said that Article 21 could not be suspended even during the Emergency.

I cannot understand the Prime Minister's defence he gave the other day that during the terrorism which the country faced, some rights had to be abridged. But the Government has already done so by having the Prevention of Terrorism Act (POTA). The Government can have more laws if it so requires. Still, it has to maintain a balance between the State's needs and the compulsions of fundamental rights. In no case should the authorities go beyond the boundary of the law. Otherwise, it can become a Jungle Raj.

This is the reason why I have felt disappointed over the general reac-

tion to the Ansal Plaza shootout. The argument is: they were terrorists and, therefore, the police were entitled to kill them without bothering about the law. The judicial system is slow to deliver justice. It does not matter even if the encounter is false so long as the terrorist has been killed.

There are umpteen numbers of examples where the police have been high-handed. The Shah Commission, appointed to look into excesses during the Emergency, was so horrified by the cavalier behaviour of the police that it drew the Government's attention to the matter and said: "Some police officers behaved as though they are not accountable at all to any public authority."

This makes the silence of academicians, lawyers or artists over the "encounter" at the Ansal Plaza all the more deplorable. I know that political parties come to life only when they smell power. The Left, even when prodded, remained silent. Only the BJP and other members of the Sangh Parivar were vocal because they wanted to use the opportunity to attack human rights activists. Their discourse, understandably, was like that of an authoritarian.

It is a matter of regret that except for a few newspapers, the comment of the print media was motivated. The Sangh Parivar moved in to try to silence the anti-Hindutva voices. Even the NHRC's authority was questioned for entertaining the petition. It had to point out that it could take cognisance of the incident under the powers given to it by the law. But more than a legal or constitutional justification it is the campaign of vilification against the Commission that is frightening. It shows a degree of intolerance, inconsistent with the principles of our democratic polity. What is important in a democracy is the courage to speak out. No consideration, whether of party or convenience, should keep us quiet when we see or suspect a wrong done. The countries that have earned respect are those where people have preferred punishment for telling the truth to the reward of keeping quiet. "The day we see the truth and cease to speak is the day we begin to die." So said Martin Luther King. I feel something like that is happening in India.

European House worried over Bangla custody deaths

STATESMAN NEWS SERVICE

DHAKA, Nov. 23. — The European Parliament, concerned at the death of 25 people in custody during the ongoing anti-crime drive by the armed forces in Bangladesh under the title "Operation Clean Heart," adopted a resolution on Thursday on "serious human rights violation" in the country, saying the army arrested people without judicial mandate and some members of the Bangladesh Parliament and Opposition political leaders and followers.

The army even "occupied" the Opposition Awami League's research centre at the death of 25 people in custody during the ongoing anti-crime drive by the armed forces in Bangladesh under the title "Operation Clean Heart," adopted a resolution on Thursday on "serious human rights violation" in the country, saying the army arrested people without judicial mandate and some members of the Bangladesh Parliament and Opposition political leaders and followers.

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Sheikh Hasina wanted to know from the government the legal basis of army deployment and cautioned that the Prime Minister would be sued "for the deaths in custody during the ongoing operation." Before her departure for Thailand yesterday, she said on failing to curb crimes, the Prime Minister called out the army and "everyday people were being killed in army custody." Sheikh Hasina will fly to New Delhi from Bangkok on 25 November to attend a conference on "Peace and non-violence."

It urged the Bangladesh government to set up an independent body to probe the killings and acts of torture and make findings public and called for releasing the members of Parliament and political leaders and end the arbitrary mass-arrest, detention and killings in military custody. It urged Bangladesh government to constitute a national human rights commission without further delay. Meanwhile, leader of the Opposition in parliament

POLICE ENCOUNTERS

Human Rights

Extra-Legal Methods Not The Remedy

By SANKAR SEN

5/8 19/11

The shootout at Ansal Plaza has embroiled the Delhi Police in an unseemly but avoidable controversy. The key witness Hare Krishna has alleged that it was not a genuine but a stage-managed encounter in which two so-called terrorists were killed in cold blood by the police. Based on the version of Hare Krishna, journalist and member of the Rajya Sabha, Kuldip Nayar, filed a petition before the National Human Rights Commission which, in turn, issued a notice to the Delhi Police to explain their action and also provide protection to Hare Krishna, who was apprehending threats to his life.

Faulty judicial process

Hare Krishna, prima facie, appears to be an unreliable witness who, according to newspaper reports, repeatedly changed his version of the story. His antecedents also do not inspire confidence. Anyone with experience in law enforcement knows that the police will never be so moronic as to stage an encounter in a crowded marketplace. They, if necessary, would have done it in a scheduled place to avoid public glare and scrutiny.

Now a post-mortem conducted by the panel of doctors has vindicated the police version and confirmed that the militants died from bullet injuries sustained during the encounter. The presence of gunpowder from militants' fingers indicated that there had been an encounter between the police party and the militants.

Many feel that NHRC's issue of notice to the Delhi Police will have the effect of demoralising the police and dampening their enthusiasm. This may not be a correct view. From experience I can say that if a petition comes to the NHRC from a member of the Rajya Sabha casting serious doubts on the police version in a sensational case, the NHRC has no option but to seek explanation from the police on the nature and sequence of events. It cannot remain quiet. The police may feel miffed, but it is unavoidable in a democratic society where the police have to be accountable to multiple mechanisms.

But the fact remains that some sections of the Press and some human rights activists have been unnecessarily critical of the police and unappreciative of the delicate and dangerous job they are performing in their fight against the terrorists. Every year nearly 700 policemen in India die with their boots on. In no other democratic country are so many policemen are killed while on

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duty.

The Ansal Plaza shooting also raises the wider issue of police encounters. It cannot be gainsaid that along with genuine there are also fake and stage-managed encounters. Whenever dreaded criminals and terrorists are apprehended, there is tremendous pressure on the police to liquidate them through encounters because

with the dangerous criminals and the terrorists can come about within the framework of law with reference to Section 97, 100 and 103 IPC which deal with the right of private defence of life and property. Section 46(3) of the CrPC empowers the police to use force to the extent of causing death to a person accused of an offence punishable with death or



their chances of conviction in courts of law are slender. Cases will drag on interminably and witnesses out of fear will not come forward to depose. There is thus also tacit public approval behind police encounter.

Civil libertarians presume that the criminal justice system is not functioning and overhauling of the entire system of the administration of justice is too big a task. The fact is that encounters are not the problem but merely a symptom of the collapsing system of justice and of the public demand for quick solutions to the law and order problems.

Recommendations ignored

However, for efficient functioning of the police, there is need for senior police leaders to resist pressure, for ruthless counter-measures coming from the members of the public and the political masters. They have to discourage short-cut extra-legal methods, particularly fake encounters. The National Police Commission in its Fifth Report of the National Police Committee recommended that fake encounters have to be discouraged by police leaders "as this is not the remedy for the situation. The answer is to strengthen law and the legal process".

The police and the security personnel when attacked by terrorists can always exercise their right of private defence. Genuine encounters for the purpose of dealing

imprisonment for life, if such a person resists arrest or attempts to evade arrest. The legal provision exists to justify the use of force against criminals and terrorists which may even result in their death. Thus an encounter per se is neither illegal nor undesirable.

Unfortunately, many fake encounters also do take place. The National Human Rights Commission on receiving complaints of false encounters from Andhra Pradesh Civil Liberties Committee regarding false encounters staged by the Andhra police held public hearings in Hyderabad and recorded evidence. The chairman of the NHRC in his letter dated 29 March 1997 to chief ministers requested them to issue directions through the Directors General of Police to all police stations on the procedures that should be followed in regard to causes where death has been caused in encounters with the police. The commission felt that the right of private defence should not be manipulated to justify fake encounters and the procedures of Section 46(3) of the Criminal Procedure Code not be subverted to such an end.

In the procedure outlined by the NHRC, it was laid down that in the case of an encounter in which the police are involved, information should be recorded in the police station and if it is considered sufficient to suspect the commission of a cognisable offence, immediate steps should be

taken to investigate the facts and circumstances leading to death and also to ascertain how the offence was committed and by whom. If police officers belonging to the same police stations are the members of the encounter party, it is appropriate that the cases are made over for investigation to some other independent investigating agency such as the state CID. The procedure outlined by the commission remains on paper and is not being acted upon by the state police forces. It is not known what steps the NHRC has taken to enforce them. The upshot is that even genuine police encounters are being viewed with suspicion.

Police can't be outlaws

Tough counter-measures involving human rights violations are now being loudly advocated against the criminals and terrorists who have no respect for human rights. Recently the Prime Minister in an international gathering of the human right activists said that in the war against terror tough decisions entailing temporary infringement of human rights and freedom were inescapable. There is, however, a danger inherent in it. The danger is that the practice of policing to break the law in the name of law enforcement will be arbitrary as a process and random in its effect. Further, violating the rule of law will have the effect of "scapegoating" the police. Police officers, and particularly the police leaders, have to remember that when the police take recourse to extra-legal tactics to make up for deficiencies of law and legal procedures, they are trying to remedy the inadequacies that they did not create.

By resorting to illegal methods and exceeding their mandate, they not only take responsibility for crime but deflect attention from the negligence of others. Again serious violation of the rule of law, when discovered, invites outside intervention and the police organisations, in trying to fend off such intervention, develop a "bunker mentality" and become less willing to be transparent. It has been aptly said by an American scholar, Dr David Bayley, that "illegality in the service of public safety makes policing a furtive and anxious activity and undermines pride which is the basis of job satisfaction". And the most effective means for changing the mindset of the police officers will be to convince police leaders that violating the rule of law is not sound law-enforcement. They should be encouraged and emboldened to change the moral tone and management priorities within the organisation to convince the rank and file that extra legal methods are counter-productive.

HD-10
19/11

Rethinking rights

pl. Rev. 11

By Harsh Sethi

Repressive modes of combating crime may temporarily succeed but can as easily exacerbate the process of blurring all boundaries and take the 'battle' into the heart of civil society.

NOW THAT the Delhi police have submitted a detailed report on the Deepavali eve Ansal Plaza encounter resulting in the shooting down of two 'alleged' terrorists, can we expect the brouhaha over the incident to die down? The chances are low, not only because the released official version still contains unexplained gaps, but equally because official accounts of 'encounters', be they with alleged terrorists or with 'criminals', often carry little conviction.

More than the specifics of the Ansal Plaza encounter, a case still shrouded in mystery, is the larger debate the incident has provoked. On one side are ranged the security forces, the Ministry of Home Affairs and its many official and unofficial spokespersons, as also a strata of our citizenry worried about the deteriorating security situation. All these claim, expectedly, that the police, in this case, for once did an excellent job and averted what might have turned into another Akshardham.

On the other side, equally predictably, are ranged our human rights activists. Not only are they sceptical about the police claims, the 'apparent' contradictions in the different official pronouncements, there is apprehension that Ansal Plaza was a 'put up' job, a public relations exercise by the police, possibly at the behest of their political masters, to show that our security forces are at full alert to save the country from terrorist machinations.

All this leaves the common citizen somewhat perplexed. Whose version are we expected to believe? Terrorism, after all, is not an imaginary, constructed threat. Too many incidents have taken place in too many parts of the country for anyone to seriously argue that there is no real danger. So, if the police, for once, have been successful in anticipatory action, should we not be applauding them rather than merely questioning the motives? And, even if there is documentary evidence of police illegality in some instances, does that warrant rubbing their claims in all instances?

Official spokespersons as also some sections of the media go further. For many decades now, in fact throughout our history as an inde-

pendent democratic republic, every protest which has accommodated violence as part of its strategy — the insurgencies in the Northeast, the naxalite movement, Khalistani and Kashmiri militancy and, most recently, Islamic radicalism — has been sought to be countered with tougher laws, giving the security forces a freer hand, playing up the fears of the common citizen to argue that what the country is experiencing is an extraordinary situation that demands extraordinary measures. The Prime Minister, Atal Behari Vajpayee, recently went on to opine that to combat religion-inspired global terrorism which, he asserted, undermines the rights of the citizenry as a whole, curbs on and a temporary dilution of otherwise enshrined rights and freedoms may become necessary. Alongside is the plea that any criticism of our security forces will only result in undermining their morale, making their task even more difficult. If anything, most such criticism is routinely derided as 'anti-national'.

Little surprise then that such refrains enrage our human rights and social activists. They, after all, have consistently argued against all special provisions, both because they violate constitutional norms and rights and invalidate the processes of natural justice, as also go against the many international covenants our state is a signatory to. They not only list out the many abuses inherent in the system (incarceration for long periods without filing charges, weak judicial scrutiny, restrictive bail provisions, and worse, custodial torture), the unwarranted protection and immunity afforded to the security personnel and agencies but also underscore the inefficacy of these instruments. At the heart of their argument is the assertion that the 'normal' laws of the land, if expeditiously and properly implemented, are sufficient to meet the challenge posed by the alleged law-breakers. That all accused, irrespective of the crime they are accused of, should be perceived to be innocent

unless otherwise proved in a court of law with due process.

Herein lies the rub. Talk to the police and even the liberal minded among them, while privately admitting to the many serious lapses in implementation, will assert that the law as it stands, even more the dilatory nature of our legal prosecutory processes, 'ensures' that the 'guilty' are rarely brought to book. And even if convicted are soon let out to continue their depredations. (The unease expressed by the BJP high command over the recent release of some political prisoners in Jammu and Kashmir well illustrates this.) The feeling is that the forces are being asked to fight an unfair battle — be it lack of equipment and training, inadequate support from sister agencies and civil society, or political interference. Worse, rather than being commended for their courage in adversity, they are the butt of ill-informed and malicious charges from busybodies.

Part of the problem lies in the fact that our human rights activists seem often trapped in what jurist Uppendra Baxi once described as "a libidinal fascination with the pathologies of state power". They are quick to jump on to any perceived excess but, exceptions apart, rarely engage with the official machinery for positive reform — the police, jails, or the judicial system.

Nor is there sufficient appreciation of the qualitative change in the nature of public protest and opposition. Insurgent groups are now far better equipped with resources and technology and their support links extend all over the globe. Many of these represent a new, ugly and a far more dangerous force than seen in the past. Any expectation that the 'ordinary' laws of the land, implemented by the normal law and order agencies in the usual manner, will be effective in containing these forces may well be unwarranted. What is at stake, it is claimed, is no mere breakdown of law and order in some part of the country but the very existence of civilised

states and society. This is why we need special forces and legislation.

It can, of course, be pointed out that much of this current situation owes to states not just refusing to respond to the 'root' causes of conflict — socio-economic and cultural rights movements for autonomy and dignity — but also the increasing criminalisation and politicisation of law and order agencies. Equally, repressive modes of combating crime may temporarily succeed but can as easily exacerbate the process of blurring all boundaries and take the 'battle' into the heart of civil society. Do tough laws and measures help contain, hopefully reduce, the resultant insecurity or are they themselves the products of insecure states transposing their insecurity onto peoples?

There is no easy resolution to this conundrum, because perceptions about what constitutes the problem and, therefore, needed solutions widely diverge but equally because reading of the ground situation is so influenced by media constructions. It is not unusual that once the feeling of a society and a way of life under siege is permitted to grow, individuals are more willing to give up hard won rights and freedoms and accept curbs on themselves. Equally, nothing damages the case for an unqualified respect for human rights than the demand by a section of the human rights fraternity that the state employ coercive force against those it describes as 'fascist', for instance Hindutva groups.

Nor can we be dismissive of the danger that in an endless wait for an elusive consensus the very ground on which we define rights, duties and freedoms may shift. After all, rights, whether in the Universal Declaration or in the Fundamental Rights chapter of our Constitution, are arrangements that we gave ourselves. We today may treat them as sacrosanct and inviolable, but can they justifiably be seen as beyond time and context. This is slippery ground. Nevertheless, it is preferable that changes in political and legal arrangements emerge out of a reasoned debate rather than acrimony and charges about alleged motives. Equally, that the debate contributes to a deepening of norms, institutions and processes more civilised than at present.

THE HINDU

19 NOV 2002

MONDAY, NOVEMBER 18, 2002

HD-10
18/11

APATHY TOWARDS STARVATION

THE PERIODIC REPORTS of starvation deaths from different parts of the country should be shaking up public apathy, but they do not seem to provoke any meaningful response from either the Central or the State Governments. Both the Centre and the States remain in a denial mode. It has been left once again to a few spirited citizens' groups and the Supreme Court to thrust this fundamental issue into public consciousness.

It was Orissa's Kalahandi district in 2001, then Jharkhand's Palamau district earlier this year and now, Madhya Pradesh's Shivpuri district and Rajasthan's Baran district where deaths due to starvation have been reported. In all the cases, it has been either the media or citizens' groups which have brought these deaths to public notice. In Rajasthan, it was the People's Union for Civil Liberties which reported, after a fact-finding mission, that 18 persons had died in the predominantly tribal district. Unfortunately, the pattern has been for the State Governments to deny that the deaths have been due to starvation. The Government of Orissa claimed that people had died because they consumed mango kernels, the Government of Jharkhand said that the deaths were due to sickness and old age and the Government of Rajasthan has carried its defence to the extreme by stating that people had died because they had eaten a variety of grass which was part of the traditional diet. The fact is that none of these deaths would have occurred if the people of the area had access to food, as they should have under the Antyodaya Anna Yojana which is supposed to provide rice and wheat at highly subsidised prices to the poorest of the poor. In Baran district, according to the media, the identification of the beneficiaries of the AAY has not been completed and the ration shops in many villages do not stock cereals for sale as part of the welfare schemes. The irony is that in many parts of the country the AAY has literally thrown a lifeline to the citizens at the bottom of the socio-economic ladder. But an uneven pattern of implementation and a lack of availability when the cereals are needed force people in

pockets to cook mango kernels as food or eat grass. This not surprisingly has occasionally resulted in deaths. There is a strong likelihood of the number and spread of such deaths increasing in the first half of 2003 when the effects of the rainfall deficiency during the 2002 monsoon are more strongly felt in the form of inadequate work and dwindling purchasing power. With the new drought relief package including special allocations for Rajasthan and Orissa, the State Governments will have even less of a defence for non-performance.

It has been said many times before and it has to be said again that it is a crime against the Indian citizen if there is even one starvation death when there are 60 million tonnes of cereals in the warehouses of the Food Corporation of India and the State Governments. The Centre is prepared to sell cereals to exporters at the same subsidised prices it charges to consumers below the poverty line, but it is not willing to aid States reach grain to those most in need. The States themselves have been less than earnest in implementing the many welfare schemes that the Centre has devised. It has been a year since the Supreme Court, acting on public interest litigation, directed the States to set in place the required administrative machinery (including a complete identification of beneficiaries) to implement, in particular, the mid-day meal scheme for school children. But that has not yet happened, forcing the Court in a recent hearing to give the States "one last chance" to comply with its earlier directive. The mid-day meal scheme and the AAY have been reported to have made a substantial difference to nutrition levels among children and the indigent. There have been reports from many States of leakages and inadequate coverage in both schemes. But their success in districts where a sensitive and efficient administration has been in place is indicative of what is possible. Indeed, convincing arguments have been made for an expansion of the AAY, in terms of entitlements and population coverage, which will be affordable and make a material difference to the indigent and the elderly poor.

... which the ... of which are yet to be verified.

Hari Krishna moves NHRC

10.11.13/11
NEW DELHI, NOV. 12. Hari Krishna, who claims that he was witness to the recent Ansal Plaza shootout in which two terrorists were eliminated, today moved the National Human Rights Commission demanding investigation to ascertain the "true facts" of the alleged encounter even as he softened his stand over the role of the Delhi Police in the episode.

"How can Delhi Police, which itself is a party in the alleged encounter, be fair in investigating the matter? We have requested the NHRC to give us an opportunity to record our statement before it or direct the police to hold an independent enquiry to note the true facts of the alleged encounter," Dr. Krishna told reporters after submitting his petition to the Commission.

Accompanied by a team of lawyers, Dr. Krishna also softened his stand towards the Delhi Police saying "for four officials of police, who are involved in the alleged encounter, one cannot blame the whole Delhi Police. Why are you people defaming the whole force?" Demanding stern action against four officials — the Deputy Commissioner of Police, Ashok Chand, the ACP, Rajbeer Singh, and the Inspectors, Govind Sharma and Hirdyabhushan, for "obstructing the course of justice," Dr. Krishna said that disciplinary proceedings should be initiated against them. He declined comment on the findings of the postmortem conducted on the two terrorists, which contradicted his allegations. — PTI

13 NOV 2002

THE HINDU

Fake encounter whiff in Ansal Plaza strike

Rajmish Sharma/Soni Sangwan
New Delhi, November 6

THE ANSAL Plaza shootout has thrown up several questions. *Hindustan Times* examined seven critical ones, and then put them to Joint Commissioner, Delhi Police, Neeraj Kumar.

The cellphone

One of the recoveries the police made from the slain men was a cellphone. It was found on one of the bodies at the All India Institute of Medical Sciences.

But even though the men were armed with the cellphone, the police aren't providing any exact information on where the alleged terrorists were just prior to the shootout.

Cellphone records would show not just who was calling the men, or who

they were calling; it would also establish their location. Every instrument has a phone identifier, which can pin down the location of its use.

So where were the two men in the days before they were killed?

NK: We don't know where they were in the hours before the shootout. They had travelled, separately, to Kashmir, western UP and Maharashtra earlier.

The calls

Police sources told *HT* that most of the calls made from the phone were to various cities in Pakistan, and to Mumbai and Dubai. But the only incoming calls were from numbers — mainly PCOs — in and around Delhi.

Is this not unusual in the case of a terrorist operation that was supposedly directed from Pakistan?

NK: Not at all. In fact, there were no incoming calls to the phone at all.

The weapon

One of the men killed was still clutching the weapon that he allegedly used during the encounter. He also had a black eye. A ballistics expert told *HT*, the "first reaction" of a person hit by heavy fire "is to usually release whatever they are holding". The impact is stunning, and unless a person is in a "comfortable position" (say seated), there's very little chance of the fists clenching around the object they're holding. However, the expert also adds that: "People can behave unpredictably when faced with death."

So how was one of the men clutching his pistol? What about the black eye?

NK: If you are trying to say that we put the weapon in his hand after he was killed, then why did we not do so with the other terrorist as well? As for whether the weapon falls from the hand, this depends on the exact details of the exchange of fire. And whether the black eye was ante-mortem or post-mortem will be known after the autopsy.

The diaries

Sources close to the investigation also point out that the diaries recovered from the slain men contain very basic information about them and their would-be "quarries". Short CVs: their names, ages, addresses and some notes on where they received training. And the name and address of their Lashkar boss Azam Cheema.

Continued on Page 5

NOV 2002

NHRC notices to Delhi police

By Our Staff Reporter

NEW DELHI, NOV. 6. Taking cognisance of a petition filed by Rajya Sabha member, Kuldip Nayar and noted journalist, Praful Bidwai, the National Human Rights Commission today issued notices to the Delhi police seeking a reply to allegations that the "encounter" in which two alleged terrorists were killed at Ansal Plaza here on Sunday evening was fake.

In a joint petition based on media reports, Mr. Nayar and Mr. Bidwai submitted that the eyewitness account appeared credible and the incident had all the trappings of a fake encounter.

They urged the NHRC to look into the matter and ensure the safety of the witness as it was a serious issue.

According to media reports, Hari Krishna, a doctor who was witness to the "encounter", alleged that it was a fake encounter and the two terrorists were unarmed when they were shot dead.

Taking cognisance of the petition, the NHRC Chairman, Jus-

tice J.S. Verma, issued notices to Delhi's Police Commissioner, Radhey Shyam Gupta, the Deputy Commissioner of Police (Special Cell), Ashok Chand, and the Assistant Commissioner of Police, Rajbir Singh, asking them to give a detailed reply to the allegations within a week, Mr. Bidwai said.

As per the notice, NHRC has asked Mr. Gupta to give adequate protection to Dr. Krishna and his family.

The NHRC has also appointed its Director-General (Investigations) to coordinate with Mr. Gupta to see that the orders were complied with.

Stating that the allegations were baseless, the police said they would send a reply within a week as directed by the NHRC.

Meanwhile, Dr. Krishna, a resident of Greater Kailash Part-II, is learnt to have left for Australia. His wife said he had gone to see his son-in-law who is ill.

A couple of days ago the doctor had claimed that he was an eyewitness to the "encounter" where the two terrorists were shot dead by the police.

He alleged that the duo were

unarmed and even unable to walk.

He claimed that he had tried to disclose everything to media-persons gathered on the spot but was pushed away by intelligence sleuths.

Our Legal Correspondent reports:

The South Asia Human Rights Documentation Centre also sought protection from the NHRC to the doctor. In a complaint sent to the Commission, the Centre cited an interview given to a newspaper today by Dr. Krishna about the 'fake encounter' and requested that an officer of the Investigation Wing of the Commission be deputed for his protection.

It also wanted the Commission to direct that the post mortem of the two suspected "terrorists" be conducted in full conformity with the Commission's guidelines; to direct the Government not to dispose of their bodies until an adequate autopsy was conducted and to examine all officials of the special branch of the Delhi police to verify their claims in this case.

OFFICE

Shootout or killing? Witness on the run

OUR SPECIAL
CORRESPONDENT

New Delhi, Nov. 6: The witness against the prosecution has gone into hiding.

A Delhi doctor who claimed to have been present at the time of the shootout with two alleged Lashkar-e-Toiba militants at the Ansal Plaza shopping mall on the eve of Diwali told newspapers that the duo was unarmed and police simply killed them.

Dr H. Krishna has been quoted as saying: "The two young men were unarmed and shot dead by the police."

After the incident on Sunday night, the special cell of Delhi police had said the militants were heavily armed — carrying AK-47s and pistols — and had planned to stage an Akshardham-type holdup by taking hostages. According to the police, the two opened fire when questioned by a commando team waiting in plainclothes and died in the ensuing gunbattle.

UNANSWERED QUESTIONS

- Why did the "terrorists" park their car in the basement when to get away they needed it running with a driver (there was none) in place?
- They might have been a suicide squad and did not want to get away. In which case, why weren't they strapped with explosives? They weren't carrying either explosives or grenades
- How is it that they conveniently carried three diaries with telephone numbers of their contacts, that too in Pakistan?
- Why was a police officer known as a (fake) encounter expert involved?
- One "terrorist" had a black eye. Who had he fought with earlier?

The doctor, on the contrary, told newspapers that he was at the underground parking lot of the shopping plaza when he saw two men — "barely able to walk" — stumble out of a Maruti car.

He said that to him the duo appeared to have not slept for weeks or was under sedation. According to his version, as they got out of the car they were shot by the waiting plainclothes policemen.

He has also been quoted as saying that on the night of the incident when he tried to narrate

his version to journalists, he was hustled by policemen.

Krishna is no longer available in his house at Greater Kailash in south Delhi and no one is responding to phone calls. The obvious inference is that fearing police reprisal he has gone into hiding.

The doctor has already moved the National Human Rights Commission, which has issued notices to R.S. Gupta, Delhi's commissioner of police, Ashok Chand, deputy commissioner, and Rajbir Singh, assis-

tant commissioner, to submit a detailed statement on the shootout.

The police have been asked to provide security to Krishna. The commission has told its director-general of investigations to keep in touch with the police so that no attempt is made to manipulate facts.

Delhi is abuzz with speculation about a staged encounter, a practice the police are known to indulge in, after the doctor's narration of the incident. Certain questions have arisen independent of his version, though (see chart).

If it was a fake encounter, it was different from other similar ones. Usually such encounters are organised observing high levels of secrecy with a short police announcement about death or deaths in a shootout.

An encounter at a highly public place like Ansal Plaza on the eve of Diwali could only have been staged to draw attention to the seriousness of the terrorist threat and point a finger at Pakistan.

7 NOV 2002

THE TELEGRAPH

NHRC serves Delhi shootout: notice on Delhi Police

Key questions

HT Correspondent
New Delhi November 6

ACTING ON complaints from human rights activists, the National Human Rights Commission (NHRC) today sought explanation from the Delhi Police about Sunday's Ansal Plaza shootout.

The NHRC asked Police Commissioner RS Gupta, DCP Ashok Chand and ACP Rajbir Singh, who were involved in the operation, to respond to its notices within a week. The commission's next course of action will depend on the response from the Delhi Police.

The panel also ordered the police to provide immediate protection to H Krishna, who told a newspaper that he was a witness to the incident. Complainants Kuldip Nayar and Praful Bidwai moved the NHRC on the basis of the account given by Krishna, who claimed that two alleged terrorists were shot in cold blood. They sought the panel's intervention for protection of the witness. They also urged the NHRC to record the version of Krishna, who is "under intimidation from the police".

The South Asia Human Rights Documentation Centre too has approached the NHRC seeking its intervention for the protection of the witness to the "extra-judicial execution" of the suspected terrorists.

(Continued from Page 1)

In addition, one of the diaries also contains the address and telephone number of Deputy Prime Minister L.K. Advani. In taking the investigation forward, this information is as good as useless. In fact, everybody, certainly the police, know all this anyway.

Why do these diaries conveniently confirm a Pakistan connection, but never throw up any new facts?

NK: These diaries will definitely throw light on the terrorist network. We can't reveal all the details because they are operational.

The basement

There appeared to be very few advantages for the alleged terrorists to park their car in the Ansal Plaza basement and then carry out the operation. If the purpose was to cause maximum damage, it would have been far easier for them to just start spraying bullets the moment they entered the complex.

On the other hand, the largely vacant lot made the police's job much easier.

So why did the terrorists decide to park their car in the basement? And why weren't they intercepted outside?

NK: It is very difficult to know a terrorist's mind. They weren't intercepted outside to prevent any by-

standers getting caught in the crossfire.

The witnesses

Witnesses had widely varying accounts of the incident. Some said there was fire and counter-fire, but at least one, a doctor, has been quoted as saying the "two men were unarmed" and that they were "barely able to walk" either because they had not slept, or because they were under sedation.

This eyewitness now seems to have gone underground, but he had told *HT* that he wouldn't speak because he feared for his life. On Wednesday, a newspaper reported that his house was under surveillance.

What about his version, though?

NK: There are always discrepancies in what two different witnesses would say. If you are suggesting that we took the two men there and killed them, then you are also saying that we planted the stolen car.

The car

The car that the men drove in was, according to the police, stolen in July. The FIR, however, was only registered at the Tilak Nagar police station on Tuesday.

Why did this happen?

NK: The owner of the vehicle wasn't able to provide details like the engine and chassis number at the time.

THE HINDUSTAN TIMES

7 NOV 2002

Rights abuse widespread in Bangladesh: Hasina

By Haroon Habib
DHAKA, NOV. 2. The Opposition leader and former Prime Minister of Bangladesh, Sheikh Hasina, has alleged that there has been a resurgence of "reactionary and anti-secular forces" in the country since the last general election in which a coalition of rightists and religious fanatics came to power.

"The consequence is inevitable — increase in violence and unbridled violation of human rights throughout the country," she said in a lecture on

"Democracy, human rights and security threats" at the Centre for the Study of International Relations in Brussels recently.

Ms Hasina said: "If the election process is betrayed, if a fundamentalist alliance assumes power through conspiracy, the country might become a hotbed of terrorism, it can become a safe haven for a terrorist network, as the Government of fundamentalist alliances will morally and physically help the so-called fundamentalist terrorists, though under cover."

Citing reports published recently in various foreign media including the *Time* magazine, *Far Eastern Economic Review* and *Wall Street Journal* that southern Bangladesh had become a haven for "religious fanatics", Ms Hasina said the Bangladesh Nationalist Party, Jamaat and IOJ, partners in the Government, "are open about their sympathies and support for religious fanatics".

Ms Hasina's observations came as sharp contradiction to the Khaleda Zia Government's stand which not only

refuted the media reports but termed them as being part of an "anti-Bangladesh campaign". The Government and its supporters termed Ms Hasina's remarks as "maligning Bangladesh abroad". The Opposition leader told the European audience that the magnitude of the problem caused by fundamentalists could not be figured earlier. But if the reports were true, she said, "it is a matter of serious concern for the world community and

Dwelling on democracy, she said

without the principle of genuine people's consent, the state could only enforce and impose its will through violence. "Without good governance, there can be no economic growth, without rule of law, there can be no justice or security for the individuals."

About human rights, she observed that where human rights were ignored, criminals and terrorists would thrive, and regional and global security was at risk as chaos would spread all too quickly, as Sept. 11, 2001 so vividly demonstrated."

THE HINDU

3 NOV 2002

Governance and the police

Human Rights 29/10 By Kuldip Nayar HN-10

Governance is not merely maintaining law and order; it is taking into account the basic needs of human beings and protecting their constitutional and other rights.

IT WAS a roundtable discussion of sorts in New Delhi the other day. The topic was Police Reforms; the Commonwealth Human Rights Initiative had arranged it. There was a pick of retired police officers present, along with some Government representatives and human rights organisations. The forum provided the best opportunity for the Government to enunciate its policy on police reforms. This was the time the Centre could have assuaged the feelings of human rights activists. Increasingly, they have come to the conclusion that the police force has been reduced to an instrument of tyranny in the hands of the rulers. Instances of suppression, third degree methods and atrocities committed against the innocent have left them with no other conclusion than that the police are a law unto themselves.

The Deputy Prime Minister, L. K. Advani, a participant at the roundtable, made no effort to correct the impression. He, in fact, told them that the "human rights approach" was different from the "government governance approach". He went on to say that the police would themselves resist reforms from "a human rights perspective". Apparently, he pleased some in the audience because there was applause over his observation. But human rights activists were convinced more than before that the brutal force was an integral part of the rule.

Mr. Advani's argument is, however, fallacious. Governance, good or bad, depends on those in power. If they do not misuse or bend the law, they are seen as administering well. But if they violate the law and go against the letter and spirit of the Constitution, they get the odium of bad governance. Indira Gandhi gave "good governance" till early 1972 because she stayed within the limits of the law and the Constitution. But the same Indira Gandhi got the stigma of being authoritarian when she mutilated the institutions and threw rules and regulations to the wind. Her governance from mid-1972 to 1977 was the worst since Independence. The reason why she could run amuck was that there was no check on the manner in which the force could be used. Nor was there any motivation in the force that it would not allow itself to be used.

The decision to arrest and release people was entirely on political considerations which were intended to be favourable to the ruling party. The police did all. That was why Jayaprakash Narayan, a Gandhian, was forced to appeal to the police not to implement illegal orders.

After having suffered at the hands of the police during the Emergency, how can Mr. Advani even suggest that the "good governance approach" does not have to tally with the "human rights approach". In fact, the two are inter-linked. A Government would be cruel, autocratic and even dictatorial without the human rights approach. One participant in the roundtable, belonging to the National Human Rights Commission, told Mr Advani to his face that the definition of human rights included economic, social and political rights. Governance is not merely maintaining law and order; it is taking into account the basic needs of human beings and protecting their constitutional and other rights.

Mr. Advani's perspective, even from the law and order point of view, is flawed. If the purpose of governance is to suppress dissent or difference or rule without bothering about the methods used, it would give birth to other kinds of deformation. A lot of alienation in Kashmir and the North-east is visible because of human rights violations. If police reforms are not meant to check the preparations the entire exercise will be peripheral. How to safeguard human rights against the onslaught of the state is the key to governance. Protectors cannot be allowed to become predators. Nor can rulers be permitted to become power hungry.

The force which cannot function within the law and the rules prescribed is a lawless force. How can Mr. Advani argue that a human rights view would "put the police in the dock?" All will depend on their behaviour. If they violate the tenets they

cannot go scot-free because governance demands a particular attitude. Excesses must be punished even if some at the top argue that such a step would demoralise the force.

The situation in Gujarat would not have deteriorated if the force knew it could be punished for not treating human beings as human beings whatever their religion. Human rights activists are responsible people. They have certain commitments. They do

HUMAN RIGHTS DIARY

not make allegations against police officers for violating human rights if they are not guilty. In fact, human rights activists become extra-patriotic at times. They try to stave off the stigma even when they know that some in authority have done things which do not become of the nation. It is my experience that human rights activists are reluctant to criticise India while abroad even when they know that criticism is correct.

My impression is that the reason why Mr. Advani does not give space to human rights is the compulsion of the rulers to misuse the police and other instruments of authority on particular occasions. He does not want the force to be accountable if it goes beyond the dotted lines of law in suppressing the insurgency. It has been seen again and again that the police go to any limits if and when the Government wants them to carry out certain orders. Strange, those who govern do not want the force to be immune to politics.

Mr. Advani sounds solicitous towards the police when he says "a human rights perspective" would provoke resistance to reforms from the police. Why should he defend them when they are in the wrong? Is it because the exigencies of politics demand the assistance of the police? There is no getting away from effecting discipline in the police if what is required is responsible governance.

Some 25 years ago the Shah Commission, which went into the excesses of the Emergency, said: "The Govern-

ment must seriously consider the feasibility and the desirability of insulating the police from the politics of the country and employing it scrupulously on duties for which alone it is by law intended. The policemen must also be made to realise that politicking by them is outside the sphere of their domain and the Government would take a very serious view of it." Understandably, there has been no action so far. It seems that politics and power are two sides of the same coin.

A body of human rights activists from Colombo invited a delegation of 10 Indians to act as observers at the recent Pakistani elections. Before the names could be finalised, a frantic message came not to make any plans. It turned out that Islamabad did not like the presence of the Indians. The Colombo delegation, conducting a pre-assessment visit of the elections, was told point-blank to keep the Indians out. This does not surprise me because we have never allowed Pakistan or, for that matter, people from any country to be observers at our elections. But this is the first time that Pakistan has retaliated. In the past, whenever there have been elections in Pakistan, people have gone from here. One I. K. Gujral, before he became the Prime Minister, was an observer.

Our Election Commission has a chip on its shoulder. It does not allow observers, not even Indians. Instead, senior officers are posted to the States to ensure that there is no hanky-panky. Whatever purpose such a practice may have served in the past it is questionable these days. Over the years, most Government servants have become tainted. Politics, communalism and money have played havoc with their integrity and impartiality. Desire for self-preservation has become the sole motive for their official actions and behaviour.

I do not know how those whose only worry is how to survive can be reliable custodians of the people's right to vote. Why is the E.C. so adamant on this point? It missed a great opportunity in Kashmir. Foreign observers would have seen how in the midst of terrorist bombs and bullets nearly 42 per cent of the voters queued up before the polling booths and exercised their franchise.

NHRC seeks explanation for custodial death in Gujarat

40-13 By Our Special Correspondent

Human Rights

NEW DELHI, OCT. 28. The National Human Rights Commission has asked the Chief Secretary of Gujarat and Ahmedabad's Commissioner of Police to explain within two weeks the circumstances leading to the death in police custody of Samirkhan Sarfrazkhan Pathan, who is alleged to have been part of a conspiracy to kill the Deputy Prime Minister, L.K. Advani, and the Gujarat Chief Minister, Narendra Modi.

Pathan was killed on October 22 with bullets to his chest and temple. Police maintain that he was "attempting to flee after snatching a police weapon". There were seven policemen present, not one of them was injured. At the time of his death, 1.30 a.m., he had been taken to Usmanpura in Ahmedabad to reconstruct the scene of a crime committed in 1996 which had nothing to do with the alleged conspiracy to assassinate Mr. Advani and Mr. Modi.

Taking note of media reports of "the disturbing circumstances in which the killing took place" the NHRC said that guidelines existed to ensure a fair inquiry into all such killings and to ensure compliance with the rule of law.

In order to establish whether Pathan's killing was "justified under the law and was not a fake encounter or death caused by custodial violence" it was necessary for the Commission to "examine

28/10

the death so reported in that light". Deaths in custody and in fake encounters have been of particular concern to the Commission as their incidence has grown. In 1993, the Commission directed the State Governments to report all deaths in custody to the secretary-general of the Commission within 24 hours.

It said "failure to report promptly would give rise to the presumption that there was an attempt to suppress the incident."

In 1995, the NHRC had again written to all the Chief Ministers directing them that post-mortem examinations of people who died in police custody be video-filmed since it was of the view "that a systematic attempt is made to suppress the truth and the (post-mortem) report is merely the police version of the incident."

Dissatisfied with the information it was receiving, and the fact that "post-mortem reports appear to be doctored due to influence/pressure to protect the interest of the police/jail officials" the Commission, in 1997, issued a model autopsy form to all State Governments.

In Samirkhan Pathan's case, the Commission has been officially informed about his death by the office of the joint commissioner of police. It has, however, not been sent the video-film of the post-mortem examination nor the report of the post-mortem.

29 OCT 2002

Bangla custody deaths worry Amnesty

Statesman News Service

DHAKA, Oct. 25. — Amnesty International has expressed concern over reported deaths and torture in army and police custody since the anti-crime drive began in Bangladesh on 17 October. It has urged the government to probe the charges.

"The government must bring to justice army or police personnel involved in the torture of detainees and clarify the legal status of the army's involvement in the arrest of civilians," Amnesty International said yesterday.

More than 2,000 people have been detained and at least five persons have died in custody since the government deployed the army for assisting "Operation Clean Heart," a statement said.

Amnesty said over a dozen arrested persons were sent to hospital with severe injuries reportedly caused by beatings in army custody. They include members of both the ruling BNP and Opposition Awami League. The AI said the home ministry claimed the deaths of detainees were due to cardiac arrest, but family members of the deceased believe they were tortured. The bodies of

those died in custody were not handed over to relatives, raising doubts about the post-mortem reports, the statement said.

Amnesty said some detainees are possible "prisoners of conscience". Two Awami leaders — Saber Hossain Chowdhury, political secretary to Opposition leader Sheikh Hasina, and Sheikh Fazlul Karim Selim, MP and former health minister, were arrested on 20 and 21 October respectively and were held incommunicado initially.

Amnesty said no details about possible charges against them were made public, and it fears they may be detained solely for their peaceful opposition to the government.

The statement said in the past, the government filed criminal cases against Opposition politicians, leading to their detention and removal from active politics.

Amnesty questioned the application of Section 54 of the Criminal Procedure Code, which allows the police to detain people on suspicion. It also expressed concern over the remand of Saber Chowdhury and Sheikh Selim and sought a guarantee from the government that these two leaders would not be tortured.

Human Rights

Killing of Dalits: NHRC notice to Haryana Govt. *MD 11 27/10*

By Our Legal Correspondent

NEW DELHI, OCT. 21. Taking a serious view of the alleged lynching of five Dalits at Jhajhar village in Haryana, the National Human Rights Commission today directed the State Chief Secretary and the Director-General of Police to submit a report within a week.

The NHRC chairman, Justice J. S. Verma, who took suo motu cognisance of media reports on the alleged lynching of the Dalits, asked the Commission to issue notice to the State Government and the DGP. Mr. Justice Verma also asked the Commission's Director-General (Investigation) to collect all the facts relating to the incident and place them before the full

Commission next week.

The Commission was shocked at the horrific incident involving five men and their right to life, sources said. The gruesome incident, reportedly the consequence of police action and mob violence, had received all-round condemnation and there had been demands for providing compensation to the victims' families.

It was in this context that the NHRC decided to call for a report from the State Government, besides its own Director-General, so that it could consider awarding suitable compensation to the families of the victims and recommend action against delinquent police officials and others responsible for the incident.

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20 OCT 2002

Human rights and the police

By Rajindar Sachar

HD-10 18/10 ✓

IT IS a common perception that human right violations will continue to persist as long as there are no significant police reforms. But the Deputy Prime Minister and Home Minister, L. K. Advani, proclaimed without embarrassment at the seminar organised by a human rights organisation in New Delhi on October 4 that his "Government had the political will to bring police reforms but in a different perspective from that of human rights activists". Mr. Advani rebuked the activists: "For you it is important from the point of view of human rights. For me it is important from the point of governance."

Now this assumption of Mr. Advani that human rights are antithetical to governance is a dangerous mindset in a society governed by rule of law, apart from being legally and sociologically flawed. Failure to protect human rights is the surest index of poor governance. One of the most urgent measures to protect human rights is to effectuate police reforms. But Mr. Advani's concept of police reforms would bode ill for human rights because he went out of his way to warn that if the police were reformed from a human rights perspective "then there is resistance from within". "The tendency to put the police in the dock is not fair." This approach of Mr. Advani is undemocratic. It is not that the people are prejudiced against the police. It is their lawless behaviour that angers the people of India. It is unfortunate that Mr. Advani should think that good governance demands a lukewarm response to human rights. If that view prevails it would be a tragedy because good governance anywhere is judged by one universal rule — how much is it able to promote human rights. But then Mr. Advani's approach fits in with his divisive agenda, which requires total police connivance like we are witnessing in Gujarat under Narendra Modi.

Terrorism has never been curbed by state terrorism, (the latter is never

permissible both under our Constitution and international human rights law) but only by public opinion turning against the senseless killings, rapes, and extortion by terrorists.

It is legally unacceptable for any state or official to assert that the victims must suffer in silence human rights violations by state agencies on the specious ground that it will demoralise the latter. On the contrary, it must be emphasised that if we are

spective commissions will show an inbred resistance among all Governments to embark on real reforms. The Government of India appointed a National Police Commission in 1977 to undertake a review of the entire system. The Commission remained in existence till 1982 and submitted eight comprehensive reports to the Government, containing recommendations covering almost all aspects of police organisation and work. But such was the cloak of se-

ened functions by the police.

The State Security Commission should have the Minister in charge of Police as Chairman and six more members. Two of these should be from the State Legislature (one from the ruling side and the other from the opposition) and four should be appointed by the Chief Minister, subject to the approval of the State Legislature, from amongst retired High Court Judges, retired senior Government officers and eminent social scientists or academicians.

The National Human Rights Commission (NHRC) had also called for reforms as it felt that "an efficient, honest police force is the principal bulwark of the nation against violations of human rights". And one of measures for this purpose was to provide a statutory tenure of office for the Chief of Police in the State.

Thereafter the Rebeiro Committee was constituted in May 1998. But its recommendations remained in cold storage. Again we have the Padmanabhaiah Panel constituted by Government in January 2000. But the same inertia continues.

We have regular seminars in this regard. But somehow the basic point is swept under the carpet — namely, that police reforms are an urgent necessity. If the police are to act as a friend of the public and not an instrument of oppression, they must be rescued from the clutches of politicians by constituting security commissions in the State. But no Government wishes to deny itself the power to use the police for political manipulations. Tolstoy wrote of the hypocritical sympathy expressed by Russian landed gentry for the serfs: "I sit on a moving back, chocking him and making him carry me, and yet assure myself and others that I am very sorry for him and wish to ease his lot by all possible means except by getting off his back". The present rulers are worthy descendants of the Russian aristocracy — let them at least now learn from what happened to the Tsar.

Failure to protect human rights is the surest index of poor governance.

to have real peace, there must be double guarantee of no violations, either by the state agencies or by terrorists.

In this connection the observations of Britain's Secretary for Northern Ireland (in 1990) are worth recalling: "Our adherence to the rule of law, in the face of the most atrocious provocation, sustains our civilisation... It is one of the terrorists' main objectives... to provoke the authorities to measures that will be judged oppressive and cause us to lose the confidence and support of the community at large..."

The Inter-American Court of Human Rights has affirmed the obligation of the state concerned to investigate, prosecute and punish crimes against humanity. A consequence of that state obligation is the concomitant legitimate expectation (if not a right) on the part of the victim to see justice done.

In India, the public has lost faith in Governments of different political hues as reforms have not been undertaken because that would mean placing the police outside the clutches of the politicians who will then not be able to use them against opponents.

A history of various attempts at police reforms and the fate of the re-

crecy over them that the Peoples Union for Civil Liberties and others had to move the Supreme Court for making the reports public, in the face of the stout resistance from the then Government.

No real action was taken for the next decade and a half till Inderjit Gupta as Union Home Minister in the United Front Government wrote to the State Governments in 1997 expressing his sadness that they had so far not even made any attempt to implement many of the basic and salutary recommendations of the National Police Commission to bring about the required changes in police performance and behaviour pattern. In the note accompanying the letter, Gupta suggested that keeping in view the major aberrations which have crept into the police system and its malfunctioning all over the country, some important recommendations of the National Police Commission need to be implemented urgently at the State level to check any further deterioration in the policing system affecting the lives and liberties of the citizens: (i) constitution of a statutory commission in each State called the State Security Commission; (ii) laying down broad policy guidelines and directions for the performance of preventive tasks and service-ori-

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18 OCT 2002

Human Rights
HD-10
3/9

Ending torture

By **Kuldip Nayar**

What the nation has to remember is that every incident of innocents' torture gives birth to more terrorism.

I HAD never imagined that the International Rehabilitation Council for Torture Victims would turn out to be only a handful of people working from a portion of a floor in a non-descript building on a deserted road. But then, even Copenhagen, which houses the Council's offices, looks an empty city. The population of the entire country of Denmark is only five million. No wonder, houses are not allowed to have boundary walls and vehicles are legally required to have headlights on during the daytime. This is probably meant to give the nation a psychological feeling of space and light.

The Council coordinates the rehabilitation of torture victims throughout the world. It admits that the progress is slow even after three decades of its existence. Of course, funds are limited. But its regret is that the international community is reluctant to do its bit. The Council is trying its best to make countries ratify the Convention Against Torture. But it is not making much headway.

New Delhi's approach is that of a policeman. It only knows how to wield the stick, not how to assuage people's fears. Counter-terrorism is important. But the steps the Government takes are against terrorists, not terrorism.

The security forces are embroiled in a situation where terrorists have assistance from foreign elements which are resourceful politically and essentially. In the circumstances, the forces are bound to make some mistakes. Unfamiliar with the local population and the terrain, the mistakes of the security forces can be condoned. But what cannot be condoned is the torture of the innocent. Torture chambers are there both in Kashmir and the Northeast, the two areas where terrorism continues unabated.

What the nation has to remember is that every incident of innocents' torture gives birth to more terrorism. As the hero of a Jean-Paul Sartre play says: violence breeds violence. There is a need for laws and regulations to ensure fundamental freedoms while controlling terrorism in the country. Law and order is essential but being a

democratic polity, we have to observe procedures which ensure protection to the common man. It is important to lay down the law on how to identify the suspects, how to prosecute them and how to spot out witnesses and see that no harm comes to them and what kind of rights and defence are available to the defendants.

The crimes committed by state officials and armed personnel are not beyond prosecution. When some policemen were

prosecuted in Punjab on charges of alleged human rights violations, the state affirmed its faith in the supremacy of law. Exercise of public power has to be coupled with accountability; otherwise, it would lead to misuse of power. In an era of globalisation where inter-dependency is the hallmark of state systems, use of weapons of mass destruction (as in the case of September 11, 2001, when the twin towers at the World Trade Center in New York and the Pentagon in Washington were bombed by Al-Qaeda terrorists under instructions from Osama bin Laden) which violated the right to life of so many individuals should not be further allowed.

If we were to introspect, we would find ourselves responsible for torture on an individual level. See how we treat our servants. The Attorney-General, Soli Sorabjee, is quite right when he stresses the need for developing a "culture of sincerity" towards human rights violations. All of us have to look within and search our own hearts.

And what about the police who were once called criminals in uniform by a judge? Their excesses are justified on the plea that third degree methods have to be used to extract "the truth", which goes by the name of "confession". Whether such a statement is admissible as evidence is a matter for the courts to decide. But the basic question is whether the

use of force is permissible in a civilised society. Whatever dos and don'ts you may prescribe, it is ultimately the police force that has to switch over to methods which do not employ cruelty and torture and unjust detention.

It is the conscience of those men and women in khaki which has to prick when they pounce on suspects or those sentenced. Public opinion is mute because fear guides it. The establishment can use any method to keep the articulate quiet. The usual law and order argument comes to prevail.

Little do we seem to realise that crime cannot be dealt with by third degree methods. It has to be countered through law and accountability. Remember the Emergency when public functionaries themselves became tools of tyranny. They were accountable to none. Although a Commission presided over by a Supreme Court judge brought out their complicity, they were not punished.

It was expected that the authorities both at the Centre and in the States, would look at some of the cases in which aberrations had been pinpointed by the Shah Commission and at many others into which the Commission had got investigations done through its officials after the Emergency. That it would forward the reports to the respective Governments for further necessary action, in a spirit of honest inquiry to determine what went wrong not only in each individual case but also in other spheres. The purpose was to learn how to avert a similar situation in the future. But no follow-up action was taken.

This is what the Shah Commission said about Jagmohan, then Lt. Governor of Delhi: "He cannot escape his direct responsibility for all that had happened and for all the illegalities committed. He has grossly misused his position and abused his authority. All this he was able to do by very

skillfully manoeuvring and by confusing the issues with the people who were in authority. The problems that he was handling were complicated and he was in a hurry to get his projects through; in carrying out his projects he neither observed the law and the rules, nor was he interested in acquainting his seniors in the administration or in the Ministry with the legal and administrative requirements of the projects that he had undertaken to put through. Jagmohan, during the Emergency, became a law unto himself and went about doing the biddings of Sanjay Gandhi without care or concern for the miseries of the people affected thereby."

Talking about torture, the detention of a person without a fair trial is no less shameful than the third degree methods employed by the police. My reference is to the case of Abdul Rahman Geelani. He is one of the four accused in the case relating to the attack on Parliament on December 13 last year. No quarter should be given to the guilty. But we should be concerned about the way the accused are denied basic safeguards under the law. Mr. Geelani has not been given the minimum protection offered under POTA.

The prosecution has produced 80 witnesses and closed its case. Not one of the witnesses has even alleged that Mr. Geelani is a member of a banned organisation. The only piece of evidence against him is a conversation over the phone he had with his brother who rang him up from Srinagar on December 14 asking for the Delhi University prospectus. Mr. Geelani's lawyers have been demanding that the court allow them to play the cassette in court but the judge has so far refused to do so. They have also challenged the police's procedure by which they intercepted the telephone conversation without following the rules laid down under the law.

An All-India Defence Committee for Mr. Geelani has been set up. Rajni Kothari is its chairman. I know from my experience that he does not take up any wrong case. I wish the Home Ministry would respect his commitment to democratic values and release Mr. Geelani.

HINDU

30 SEP 2002

Undertrial dies in Asansol jail hospital

5/11/09
Statesman News Service

ASANSOL, Sept. 27. — Undertrials in Asansol sub-jail today protested against the alleged torture on Ananda Bauri, an inmate, inside the police lock-up. Ananda died in the jail hospital today.

There was chaos as Ananda's relatives and under-trials refused to let officials take away

his body for post mortem. Police resorted to mild lathicharge to quell the mob. This is the seventh case of death under unnatural circumstances inside police lockup over the last two years.

Ananda & his brother Lalu were arrested in Kulti on Wednesday on charges of dacoity and possessing illegal fire arms (u/s-399/402 IPC, 25/27 Arms Act & 9B-3 Explosive Act). They were produced before the Asansol SDM yesterday. "Ananda was brought here around 5 p.m. yesterday. He complained of severe pain in knee joints and lower abdomen," Mr RK Mondal, Asansol sub-jail superintendent, said. "He was taken to our medical unit. Early today, he complained of severe abdominal pain". He died around 4.40 a.m. In his report, Asansol sub-jail medical officer

Mr Utpal Nandi said: "Cardio-respiratory failure might have been the cause. He also had symptoms of tuberculosis." Before being taken to the Asansol Court, Ananda was treated at the Pithaikari Health Centre which said he was suffering from malaria.

"The varying diagnosis proves that all these reports were prepared by police to cover up for the torture," said Mr Swapan

Sarkar, Ananda's lawyer. "Ananda was beaten up and he was not in a position to walk properly," he said.

Mrs Bhulani Bauri, Ananda's mother, said: "I met him while he was being taken to jail. He was not in

a position to walk. He told me that police had beaten him mercilessly in the Kulti lock-up."

"Ananda was arrested after he was spotted talking to Naushad Ansari, a dacoit ... He was kept in the lock-up for days, beaten up and forced to confess that he was involved in a few dacoities in the area". Naushad, who has also been arrested, said: "The O-C beat up Ananda mercilessly. He had vomited blood several times. He was given electric shock in the ears." Burdwan SP Mr BN Ramesh said: "Inquest has already been done, we will hold a separate inquiry."

RECENT CUSTODY DEATHS

DATE	DECEASED	JAIL
04.09.2001	TAPAS KHANDAR, aged 25	Katwa
01.10.2001	ISMAIL SK, 25	Burdwan
01.12.2001	ASHOK MONDAL, 22	Burdwan
24.07.2002	GOPAL PAL, 36	Burdwan
03.06.2002	JOYLAL TURI, 40	Asansol
27.09.2002	ANANDA BAURI, 27	Asansol

NHRC calls for communal harmony

By Our Legal Correspondent

NEW DELHI, SEPT. 25. The National Human Rights Commission today condemned the "outrageous" terrorist attack on the Akshardham temple in Gujarat and urged all sections of the society to maintain law and order.

At a meeting presided by the chairperson, Justice J.S. Verma, the commission said: "Such criminal acts are, in any circumstances, unjustifiable, whatever reasons may be invoked to justify them..."

They are violative of every conceivable human right. The full force of law must be brought to bear in dealing with such acts of terrorism and in bringing to justice those who perpetrate or abet them".

The Commission appreciated the statements of leaders of political parties, as well as leaders of various communities, urging inter-communal harmony.

On its part, the commission appealed to all elements of civil society to cooperate fully with the authorities in their efforts to maintain law and order and to preserve and protect the human rights of the people of Gujarat and, indeed, of the country as a whole.

It said: "nothing should be done to divert the attention of the authorities from the fulfilment of their responsibilities in this respect, nor should any encouragement be given to any act or statement that could exacerbate the present situation".

THE HINDU

26 SEP 2003

Human rights and security

By Neera Chandhoke

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2/19

INTERNATIONAL RELATIONS theory has generally been pre-occupied with a state-centric concept of security, which is concerned with territorial integrity and with military and nuclear superiority vis-a-vis troublesome neighbours. In the last two decades, however, we have become acquainted with the idea of an expanded concept of security — human security. This turns our attention to the ways in which ordinary human beings can live their rather ordinary but nevertheless valuable lives in some degree of freedom from the shackles of pervasive uncertainty and deep-rooted fear. Or, the concept of human security is pre-occupied with the way individuals can live out their lives the best they can, without being constantly threatened by physical suffering, material deprivation and affronts to human dignity.

And this is of the utmost importance for two reasons. One, the life of every individual has to be free of fear as a matter of his/her right. This is the foremost obligation that the state owes its people. The very legitimacy of state power is premised on this assumption — that the state will protect its people from any kind of threat whether material or physical. If this reason can be considered as falling within the domain of normative thinking of the state, the second reason is pragmatic. Unless people are guaranteed security, any given society will be troubled with discontent and unrest, all of which can easily translate into violent conflict. In India this is more than apparent in the many struggles that dot the political landscape. From the militancy in Kashmir that casts a constant shadow over India-Pakistan relations, to the naxalite movement, to the insurgency in the Northeast, to the battle against big development projects, the country is rocked by both strife and insecurity.

However, despite the fact that the shift from a state-centric to a human centric concept of security is desirable, the very proliferation of works

Individuals have rights and states deliver security when they respect these rights.

on human security causes some unease. Because, the concept of security has now been widened to such an extent that it may risk implosion through overuse. For one, consider that what has normally been thought of in political theory as a right to certain goods is now being conceptualised as security of these goods in international relations theory.

But security cannot be identified with rights simply because it is a property that is attached to a specific state of affairs — that of confidence, assurance and freedom from fear. Correspondingly, people are free from fear only if and when the state respects their fundamental rights. I am secure only if my rights to life, liberty and dignity are recognised and respected by the state, which protects me both from its own coercive institutions and from armed groups in civil society as a matter of my right. Second, the assertion of a right places a corresponding obligation on the state to guarantee whatever human beings have — right to life, freedom, justice, equality and satisfaction of material needs.

When our state does so, and when we are reasonably confident that the police will not come knocking at our door at midnight and arrest us without any justification, we are secure in the possession and exercise of our rights. Note that the state does not make us secure in the possession of our rights as a matter of benevolence. It does so because rights have been asserted, and when rights are asserted they compel obligation. Security, therefore, is both supervened upon and is a co-relate of rights. Individuals have rights and states deliver security when they respect these rights.

Arguably, the concept of security is supervened onto three kinds of rights. First, security is a co-relate of

political and civil rights. Individuals are safe when their right to freedom and their right to participation in the political life of the country are secured through codification of political and civil rights. Second, security is a co-relate of social and economic rights. Individuals are secure when their basic right to shelter, food, education, health and income is satisfied by the state, when they are not left destitute and impoverished, and when they are not stripped of dignity because they have to beg for what is rightfully theirs. Third, security is a co-relate of the right to one's community and culture.

The third set of rights — the right to community and culture — is a comparative newcomer in the political terrain of rights talk. It has emerged as a response to two distinct developments in the global arena, one of which is political, and the second of which is cognitive. Politically, the issue of the right to culture emerged in direct response to the exigencies of building nation-states in multi-ethnic and multi-cultural societies.

By the end of the 20th century it was clear that the nation-state may prove one of history's most grim blunders. For, almost everywhere, the bid to construct a hyphen between the state and the nation has led to majoritarianism on the one hand, and the marginalisation and often the oppression of minorities on the other. Even as they try to build nations out of disparate belief systems, most of the states in South Asia are marked by intractable, vicious, and perhaps un-resolvable conflicts between the majority and the minority.

Cognitively, the idea that people have the right to their culture and community has been catapulted onto the scene of political theory by a major shift in the way we concep-

tualise the individual. The idea of individualism, which was originally born in Europe, was transplanted to the colonised world through a variety of means.

By the 1980s, however, this idea had run out of steam. For, scholars had realised that in the real world individuals are embedded in specific cultures, religions and languages. They gain their sense of the world, how to make sense of the world, and how to evaluate the world from their culture. It follows that if individuals are deprived of their culture, if this culture is attacked, or disparaged, or dismissed as non-valuable, individuals lose their identity, their sense of the self, and their dignity. Deprive individuals of access to their culture and we deprive them of self-hood; deprive them of access to their meaning systems and we have so many diminished individuals on our hands.

Whereas the argument, that individuals need access to their culture, is a general principle, it acquires particular salience in the context of minorities. For, all over South Asia, it is precisely the minorities who are being denied the right to their religion, language and culture. Minorities are insecure in India, because the consolidation of religious radicalism or Hindutva has systematically violated their fundamental rights. But somewhat ironically the excesses of Hindutva have also produced collective fear and neurosis. For, no one in India is secure today, neither the minority trembling under the onslaught of perverse and demeaning stereotypes and systematic pogroms, nor the majority fearing a backlash from the forces of "international terrorism". Just witness the paranoia that grips the country on national commemorative occasions. They have become moments for the display of the coercive power of the state rather than celebratory affairs. We have paid a heavy price because the state has not taken human rights seriously, and because it has failed to deliver security.

NHRC chief for ratification of convention against torture

110-9
By J. Venkatesan 13/9

NEW DELHI, SEPT. 14. The Chairperson of the National Human Rights Commission, Justice J.S. Verma, today called upon the Government to ratify the Convention Against Torture.

Inaugurating a conference on "reparation for torture victims in India, Sri Lanka and Nepal," Mr. Verma said given the present Indian law which prescribed punishment against torture, the standards of scrutiny set and implemented by the Supreme Court and the NHRC, non-ratification of the Convention was only giving everyone an argument against the Government.

He said the degree of torture might differ from place to place but the need to address the issue, seek acceptable standards of treatment and reparation for survivors of torture was universal. The three important components in the fight against torture were restitution, rehabilitation and guarantee of non-repetition, he said.

He was of the view that by using counter-terrorism, you might fight a terrorist but not terrorism. "Every act of torturing an innocent person sows the seeds of further terrorism", he added.

The conference was organised by the Commonwealth Human Rights Initiative (CHRI), a Delhi-based human rights NGO and REDRESS, a London-based NGO.

The Union Law Minister, Jai Prakash Narayan, in his message, expressed the hope that the deliberations of the conference would be quite useful

to the Government in improving the standards of human rights.

In his keynote address, the Attorney-General, Soli Sorabjee, stressed the need for developing a culture of sincerity towards human rights violations. He wondered how we had been tolerating some level of "third degree" methods when dealing with servant maids.

According to Carla Ferstman, Legal Director of REDRESS, the meet brought together experts from the region to strategise on how to address the consequences of torture — to ensure that survivors received legal redress and that the perpetrators were made accountable.

Torture continued to be a human rights violation of major concern in India, Nepal and Sri Lanka. A silent crime, it was committed behind closed doors away from the public eye.

Bhogendra Sharma, Centre for Victims of Torture, Nepal; Kalyananda Tiranagama, Lawyers for Human Rights and Development, Sri Lanka; C. Rajkumar, Lecturer, School of Law, City University of Hong Kong; M.P. Singh, Professor of Law, Delhi University; Justice Leila Seth, Chairperson of CHRI; Lutz Oette, Project Coordinator, REDRESS; K. Chockalingam, Vice-Chancellor of Manonmaniam Sundaranar University, Tamil Nadu; Ravi Nair, Executive Director, South Asia Human Rights Documentation Centre; P.M. Nair, NHRC Nodal officer, Institute of Social Studies were among those who participated in the conference.

1 5 SEP 2002

THE HINDU

NHRC urged to probe 'misuse' of children for 'yatra'

By J. Venkatesan

NEW DELHI, SEPT. 14. The National Human Rights Commission has been moved to order an inquiry into the alleged misuse of the State machinery in forcibly closing schools and mobilising children to line them along the route of the 'gaurav rath yatra' of the Gujarat Chief Minister, Narendra Modi.

Two lawyers, Ashok Agarwal and Aurobindo Ghose, have brought to the notice of the Commission the September 9 incident of school children being asked to wear saffron scarves and wave BJP flags and raise communal slogans to welcome Mr. Modi for "partisan political and electoral purposes". They said as per the reports, in Kalol about 300 girls from the local K.G.M. School waited for the Chief Minister in the sun, balancing pots on their heads. In Dhamasana village, boys from H.S. Patel High School were reported to have been asked to cheer and wave. The teachers had alleged that they were instructed by

the local BJP leaders to bring school children and line up on the routes and wave flags.

The complainants said they were aghast and agonised at the blatant and brazen use of the State power to arbitrarily and unilaterally close schools and force out children and coerce them to join an openly partisan political event organised by the BJP. They maintained that depriving children of precious time meant for studies and play and exploiting them for political purposes was an affront to the fundamental right of children, Declaration of Rights of the Child and other conventions.

They urged the Commission to order an inquiry into the incidents and take appropriate action against the State administration, the BJP and the Chief Minister; further to direct the State Government to desist from abusing and misusing school children in any manner for political advantage to any political party and to ask the Gujarat Government to pay adequate compensation to the children for violation of their human rights.

NHRC orders Rs 3 lakh relief to wife of 'disappeared' man

2/8 TIMES NEWS NETWORK (11-3)

New Delhi: The National Human Rights Commission (NHRC), on Wednesday directed the defence and home ministries to pay "immediate interim relief" of Rs 3 lakh to Meena Khatoon whose husband had disappeared while in custody of the armed forces.

Ms Khatoon, a resident of Manipur, had filed a complaint with the Manipur State Human Rights Commission on July 25, 1999, that her husband, Mohammed Tayab Ali, was "picked up by uniformed army personnel while he was going from his village to Imphal on a two-wheeler and has not been seen thereafter". At the instance of the state commission, Manipur's director-general of police sent messages, including one to the Assam Rifles, to find out about Ali's whereabouts. The Assam Rifles told the police that no individual by that name was picked up by them. The state commission then referred the case to the NHRC.

The NHRC, thereafter called for a report from the defence and home ministries. According to the defence ministry, "The Assam Rifles had received information that some insurgents, after firing at CRPF personnel, were fleeing towards Dimapur. A team of 17 Assam Rifles had established a mobile check-post to apprehend them. The team tried to stop a speeding vehicle upon which there had been ex-

change of fire and one person died. The deceased was later identified as Ali." The defence ministry also said that Ali had died in retaliatory fire by the armed forces.

Based on this report, the NHRC said: "The stand of the ministry is totally different and inconsistent with the earlier report of the Manipur DGP in which the Assam Rifles had reportedly denied picking up any person by the name of Ali."

The defence authorities also reported to the NHRC that the local police had not made any effort to identify the body, which was later disposed off as unidentified. The commission, therefore, ordered that the photograph of the person killed in the encounter be shown to the complainant. The state DGP wrote to the commission that the complainant and Ali's family members denied that the photograph was that of the victim.

The NHRC held that the facts clearly indicated that Ali had been picked up by some personnel of 17 Assam Rifles and taken to the headquarters. It quoted supreme court judgments in similar cases and said: "As soon as it is proved or admitted that the victim was in the custody of someone, the burden is on that person to prove how he dealt with the detainee." In this case, the NHRC held that Khatoon had lost her husband at a young age and since human rights violations were made by the armed forces, relief should be given.

22 AUG 2002

State department says legal action may undermine the war on terrorism

US bid to halt human rights suit against Exxon Mobil

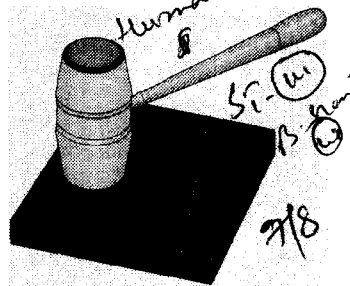
Edward Alden
WASHINGTON, 6 AUGUST

The US is trying to quash a human rights lawsuit launched by Indonesian villagers against Exxon Mobil, claiming it could undermine the war on terrorism.

The State Department warned that the action alleging complicity in human rights abuses by the oil group could have a "potentially serious adverse impact" on US interests and the struggle against terrorism.

The lawsuit was filed last year by the International Labour Rights Fund on behalf of 11 villagers in the Indonesian province of Aceh. They charged that Exxon Mobil, which operates a vast natural gas field in the province, paid and directed Indonesian security forces that carried out murder, torture and rape in the course of protecting the company's operations in the 1990s.

Exxon Mobil has denied the allegations.



The US government's intervention will raise new questions about its commitment to human rights in Indonesia at a time when Congress is considering lifting restrictions on US training of Indonesian military forces. Colin Powell, US secretary of state, said in Jakarta last week that he wants to see the two countries resume military ties that were suspended in 1999 after Indonesian security forces were implicated in a wave of violence in East Timor. Phil Reeker, State Department spokesman, said the US remained "very engaged with the human rights dialogue in Indonesia".

The State department's intervention could kill the case, which was filed under a US law that lets foreign citizens use US courts to hold American companies accountable for violations of international law. A similar case filed against Rio Tinto, the mining company, was dismissed this year when Washington warned it might harm US interests in Papua New Guinea.

In a letter to the US district court in Washington, the State Department's top legal adviser said a decision against Exxon "would . . . risk a potentially serious adverse impact on significant interests of the United States, including interests directly related to the ongoing struggle against international terrorism".

The letter, released by plaintiffs yesterday, warns that Indonesia is so concerned about the secessionist movement in Aceh, where support for radical Islam is strong, that interference by a US court could impair the entire rela-

tionship with the US.

In addition, Washington says, the lawsuit could discourage foreign investment in Indonesia, particularly in the energy and mining industries. That would in turn hurt government revenues and further weaken a key US ally.

Exxon Mobil lawyers had argued for the State department to intervene on foreign policy grounds.

Mila Rosenthal of the Lawyers' Committee for Human Rights said that Washington's action in the case suggested "that the war on terrorism is now going to be used as a cover for all kinds of corporate malfeasance".

She noted that the intervention came just 18 months after the State department persuaded many US and UK oil and mining companies to agree to stem abuses by security forces protecting their overseas operations. Exxon-Mobil did not sign up to the voluntary principles.

(Financial Times)

NOT RECORDED

7 AUG 2002

'GUJARAT VICTIMS FACING WAR CONDITIONS'

Translate rhetoric into action, NHRC chief tells PM

By Our Staff Reporter

Human Rights

BANGALORE, AUG. 4. The Chairman of the National Human Rights Commission (NHRC), J.S. Verma, said here today that the Prime Minister, Atal Behari Vajpayee, must translate his rhetoric into action, and bring back religious tolerance in the country.

Speaking at a round table on combating communal hatred, at the National Law School of India University, he recalled Mr. Vajpayee's earlier statement that he believed in the Hinduism of tolerance and respect for all, a religion that prioritised humanism. "If things had changed..." the Prime Minister had then said, "I would be far away from it."

The former Chief Justice of the Supreme Court expressed anguish that those who had been rendered homeless in Gujarat were still unable to go back or were afraid to go back

or both. A part of the reason was that "we as a people are unconcerned about anything, unless it touches us directly". He echoed Mr. Vajpayee's reaction to the killings that followed the Godhra carnage, terming it a "national shame" and adding that he felt the shame doubly, as an Indian and as a Hindu.

The homeless people of Gujarat were facing war conditions as they had suffered the pain and hardship of those caught in a conventional war. They had lost their families and property and were struggling to live with a semblance of human dignity in the face of adversity.

That the conditions were still not back to normal was evident from Mr. Verma's statement that his one hope was that the agony would not last much longer.

If the Prime Minister believed in "Vivekananda's

Hinduism", which was one of religious tolerance, he must "act" to bring that Hinduism back.

The NHRC Chairman was strong in his criticism of the way things had been handled in Gujarat and made it clear that tacit support from several official quarters to those stoking the fires of communal hatred had emboldened the latter.

The result was an orgy of orchestrated violence against Muslims and loot and arson of their property, which left 1.5 lakh people homeless.

The round table comprised academicians, journalists, advocates, representatives of NGOs and students, who presented papers on various aspects of communal violence, the role of public and State agencies in dealing with it, the role of the media and on what could be done to prevent a "genocidal future".

5 AUG 2002

THE HINDU

Detention after release being probed, says judge

Humankumar
Statesman News Service

MALDA, Aug. 4. — The district judge, Mrs Keya Basu, today said she was probing why the two persons who died in custody were in court lock-up even after being released officially. Refusing to blame anyone, she said: "If you force me to say, I will say I am the only guilty person."

In a related development, the district Left Front demanded the transfer of the SP (Malda), Mr Pankaj Datta, for "negligence of duty". The LF district convener, Mr Jiban Maitra, told reporters that the SP was responsible for the custodial deaths as he did not inform the judicial department about overcrowding of prisoners. Mr Maitra said he had sent a report in this regard to the chief minister on Friday.

The district Congress, too, held Mr Datta responsible for the deaths. The Congress MLA, Mr AH Khan Choudhury, said the party would start a case against the SP. The Congress, however, called off tomorrow's bandh to protest against the lock-up deaths.

The district magistrate, Mr AK Bala, criticised Mr Datta for his comments to the media and said he could not express any opinion to defend his staff before completion of the inquiry. The SP had said: "Court is not my concern as it is under the judiciary. And police personnel deputed to the court office were not guilty. If there were any specific complaints then the guilty would be suspended."

The district magistrate reportedly told the two deputy magistrates probing into the case to find out in detail what had happened on that day to fix responsibility.

An official at the Malda collectorate said: "No one, not even the DM could avoid responsibility."

5 AUG 2002

THE STATESMAN

Malda inmates went without food: Probe

STATESMAN NEWS SERVICE

MALDA, Aug. 3. — Contractors have not been supplying food to the prisoners here for the past few weeks owing to alleged shortage of funds. This was revealed during the district administration's probe into the deaths of two persons in the court lock-up here on Thursday.

In a related development, life was paralysed in the town today following the 12-hour bandh called by the Congress to protest against the custodial deaths. Markets, schools, colleges, banks and some offices were closed. About 21 Congress workers, including the party MLA, were arrested for blocking NH-34.

The district judge, Mrs Justice Keya Basu, said she had directed the jail authorities at 4.30 p.m. on Thursday to give tiffin to all the accused persons lodged in the lock-up. But she was not aware if her orders were carried out. Officials, however, said that the 262 accused persons had got no food throughout the day.

She admitted there were problems over the distribution of food to prisoners owing to alleged shortage of funds, lack of allotment and non-payment of dues of Rs 30,000 to the contractors.

The DM, Mr AK Bala, said the judicial department had not intimated the treasury about the food allotment problem.

This despite the treasury handling the bills of contractors, tiffin expenses of prisoners and payment of lawyers recruited by the government.

Rs 40 for a bottle of water in pigeonhole court lock-up

HT Correspondents

Malda/Siliguri/Cooch Behar/Darjeeling, August 2

THE ROOM is 20 ft by 3 ft and can accommodate at most 40 people. Yesterday, 242 (unofficial figures put it at more than 350) were herded into it. There were no fans, no drinking water, no toilet and no ventilation.

Seven hours in this hell on a day when the mercury touched 40°C left two dead and six others in the hospital.

Their cries for water fetched them a single bottle after paying Rs 40 to the policemen on duty. The contents of the bottle vanished even before it could be opened. So they were forced to drink their own urine instead.

As for their pleas for a little more room, it earned them an inch on a bench outside the cell at a price of Rs 20 per head.

Such scenes are not unique to the Malda court lock-up. It can also be witnessed at court lock-ups in Cooch Behar, Siliguri and Darjeeling—which are marginally better and may turn into lethal chambers.

At Cooch Behar, the court lock-up is a dinghy, small room with little ventilation and no fans or lights. The attached toilet hasn't been cleaned for years

and emits a stench that envelops the entire complex. A thin partition divides the lock-up into two sections—for males and females. The men's lock-up measures 35 sq ft while women undertrials are packed into a 21 sq ft space.

Police have a ready explanation for the absence of a fan. "An undertrial may hang himself or herself. But the condition of this lock-up is better since we have a steady supply of water and enough ventilation," said a policeman attached to the Court inspector's office.

He admitted that the male lock-up can house a maximum 15 undertrials but there have been times when "we have had to keep more than 50 arrested in that space". With the Cooch Behar police on a drive to round up criminals in this district as well, it seems to be only a matter of time before a tragedy occurs at the Cooch Behar court lockup as well.

The male lock-up at the Siliguri court is much larger—it measures 50 ft by 16 ft. This space, admit court officials, is just enough for about 50 people. But on an average 80 undertrials are lodged here everyday during court hours. And there have been times when this number has gone up to 150.

For instance, on July 31, when the Siliguri police made preventive arrests, the 140 arrested were packed into the cell. During the crackdown on the Kamtapuri People's Party, more than 170 undertrials were kept in the cell.

While the ventilation in the Siliguri lock-up is better, it would clearly not be adequate if more than 100 persons are herded into the 800 sq ft cell. There is no water connection, court officials blame undertrials for this.

"Every time their bail applications are rejected, they rip off the water supply lines. We keep on repairing them. But yes, there is room for improving the state of the lock-ups," said the court official. S Patro, the lockup-in-charge, argued that when the cell gets too crowded, the undertrials are locked inside police vehicles that brought them to the court—another violation of the law.

Siliguri Bar Association secretary Manik Chand Verma said the court lock-up gets overcrowded at times and could turn to be dangerous. The only court lockup that would perhaps not witness a repeat of Malda is the one at Darjeeling. Not because the cell measures about 350 sq ft and has a toilet and running water. It's only because Darjeeling is a hill station, an official said.

Prisoners suffocate to death in jampacked lock-up

Human Rights

Subhro Maitra
Maldá, August 1

TWO PRISONERS died of suffocation today after the Maldá police packed 374 accused into a 20 feet by 3 feet court lock-up for seven hours without water in the searing summer heat. Intense thirst caused many of the accused to drink their own urine, said three of the arrested men — Rabbul Sheikh, Subodh Karmakar and Nemaí Paul.

After standing the misery

from 10 am, the accused rioted around 3.30 pm and succeeded in breaking down the door an hour-and-a-half later. The police prevented some of them from fleeing but most escaped. The men, mostly pettyfoggers, had been nabbed yesterday as the district police launched a nightlong raid to meet a monthly target of arrests. After spending the night in the various police station lock-ups, the men were brought to the Maldá court this morning and forced into a cell that

can hold only 50 men, court officials said.

One by one they were produced at the various court-rooms only to be brought back to the hot, windowless cell.

The policemen didn't lose the chance to use the situation to make a fast buck. Rabbul Sheikh told *Hindustan Times* that he had bribed a cop with Rs 50 to get him a bottle of water.

Around 2.30 pm, all of them had been produced before the judges, and the policemen went

off for a bite and perhaps a snooze.

Within the next hour, with the mercury soaring, two of the accused died and many fell ill. In their desperation, the prisoners began jostling and fighting one other, and those near the door kept banging against it with whatever strength they had left.

At five in the evening, the cops returned to take the prisoners back to the police stations. Just then, the door gave way and the suffering men

burst out of the cell. The policemen had little chance of stopping the mad rush. By the time they managed to shut the door again, most of the prisoners had gone.

Among those left behind were two corpses. Their lips were blue and their faces blanched. Dr Subrata Som, who will conduct autopsies on them tomorrow, said that in all likelihood the men had suffocated to death.

Twelve others have been admitted to hospital.

The Superintendent of Police and the District Magistrate refused to comment when *Hindustan Times* contacted them.

The Maldá Bar Association has called a strike tomorrow in protest against the police brutality.

"There could have been more than 374 people there for all we know," Bar Association secretary Asit Bose said. "The police do not keep proper records of the arrests when they round up people by the dozens to meet their monthly quota."

Human Rights

JUSTICE WITHIN PRISONS

HD-10 11/8

THE FINDINGS OF the National Human Rights Commission (NHRC) on the growing number of under-trials languishing in prison are a grim reminder of the imperviousness of the police and the magistracy to the pronouncements of the Supreme Court more than two decades back declaring speedy trial a fundamental right under Article 21 of the Constitution. It also raises questions concerning the actual performance of fast track courts set up in recent years exclusively to deal with the conditions of under-trials and the response of States to the interventions of the NHRC. Unconscionable delays in the delivery of justice are manifest in several forms. But the most adverse fallout for the credibility of the Judiciary — besides delays in securing prosecutions and failure to enforce convictions — must undoubtedly be the pervasive neglect of those under-trials who are often guilty of no more than petty crime. In such instances, the very rationale for punishment is defeated as detentions without trial invariably stretch well beyond the term of sentence prescribed by law for such crimes. According to the NHRC's report, the problem has assumed alarming proportions over the years with jails in some States filled to 400 per cent of their capacity. Seventy per cent of those who were in jails were under-trials. In Uttar Pradesh, Manipur and Meghalaya, they account for 90 per cent of the jail population; whereas in Delhi, Bihar and Jammu and Kashmir, it is in the region of 80 per cent.

The Supreme Court had made a series of observations way back in 1979, declaring speedy trial of detenus a fundamental right under Article 21 of the Constitution and also highlighted the duties of magistrates to inform the accused

of their right to obtain bail before issuing them orders for remand. It also suggested a radical departure, namely that bail amounts should be linked to the financial circumstances of the accused and the probability of his absconding; rather than be determined on the basis of the nature of the crime. Correspondingly, it prescribed free legal aid as a basis of a reasonable and fair procedure by reading into Article 21. But there is most glaring evidence of miscarriage of justice in nearly all of the above respects. Consequently, the accused continue to languish within prison walls for durations longer than the actual term of sentence prescribed for a particular crime. It is but a small consolation that Tamil Nadu showed a declining trend in 2000-2001 in the number of under-trials remaining in prisons.

Clearly, there is neither a lack of appreciation of the many dimensions of the problems facing the jail population, nor judicial directives regarding the remedial measures that would have to be initiated. To that extent, short of palpable improvements in the conditions prevailing in prisons generally and decline in the number of under-trials, nothing else can stem the rot within the system of criminal justice administration. In the realm of implementation, poor dissemination of the latest information to the lower rungs of the Judiciary has often been seen as posing a hurdle in ensuring protection for the victims. In particular, lack of access to the more contemporary interpretations of the constitutional provisions in the area of human rights discourse and innumerable judge-made laws is something that the Justice V. S. Malimath Committee on reforming the criminal justice system could address with potentially far-reaching implications.

1 AUG 2002

Rights group faults poll reforms bill

By Akshaya Mukul
TIMES NEWS NETWORK

New Delhi: The Commonwealth Human Rights Initiative (CHRI) has written to all MPs highlighting the fact that the Representation of the People (Amendment) Bill drafted by the government "curbs the voter's fundamental right to know in several ways, thereby diluting the very purpose of the supreme court judgment".

According to the CHRI, contrary to the orders of the SC and the election commission, the draft bill does not require the candidate to give any information about his educational and financial background.

The voter has no way of knowing whether the candidate has defaulted on the repayment of bank loans or has unpaid elec-

tricity, water and air travel bills which are long overdue. Similarly, the bill intends that the SC and EC cannot add any more grounds for disclosure.

On the requirement in the bill that a candidate has to provide information whether he is accused of any criminal offence punishable by imprisonment for two years or more, the CHRI says that there is nothing new in this disclosure clause. "It only provides for a procedure and proforma for filing such information before the returning officer, nothing else," the CHRI says.

The CHRI has also listed a series of limitations about disclosure in the proposed bill. First, if a candidate is chargesheeted less than six months before filing nominations, he can still contest an election and become an

MP or an MLA.

Second, if a candidate has been chargesheeted for aiding and abetting or criminally conspiring in the commission of any heinous offence (mentioned in the bill) in two separate proceedings, he need not mention this fact while filing his nomination.

Third, the list of heinous offences given in the bill leaves out several other offences of a very serious nature like causing grievous hurt, possessing or manufacturing of explosives, trafficking in women and children, bride-burning, atrocities on SCs/STs.

Fourth, if a candidate is charged with several heinous offences of kidnapping for ransom, rape and murder in a single criminal proceeding and no other, he can safely contest an election.

U.N. treaty against torture approved

UNITED NATIONS, JULY 25. The United States faced stiff opposition from the European Union and Latin American countries as it tried to block a draft treaty which would allow independent inspection of prisons and detention centres worldwide by international and national experts to check abuses and torture of detainees.

India, China, Russia, Pakistan, Japan, Libya, Egypt and Australia, were among those who voted with the United States in the 54-member United Nations Economic and Social Council on the proposal which fell through by 15 votes to 29.

Those opposing Washington included the entire European Union and most of the Latin American, Caribbean and African nations.

After the American motion was lost, the Council approved the treaty by 35 to 8 votes with 10 abstentions.

China, Egypt, Australia, Cuba, Japan, Libya, Nigeria and Sudan cast negative votes. But India joined the U.S., Russia, Pakistan, Bhutan, Cameroon, Ethiopia and Qatar in abstaining.

India condemned the practice of torture and asserted that the importance of the Convention Against Torture could not be overemphasised.

But it wanted more time to be given for negotiations on the Optional Protocol to the Convention Against Torture and said the Council should work for an instrument acceptable to the widest possible representation of U.N. — PTI

THE HINDU

26 JUL 2002

No Amnesty for Modi

24/7
H.C. Kumar Desai

RARELY BEFORE has the attention of the international community been focused on two state-level elections in India as at present. One can understand the world's interest in Kashmir, but there is little doubt that Gujarat, with Narendra Modi at the helm, is also being watched closely. It isn't clear as yet when the elections will be held in this state. But even the tentative preparations by the various parties and the response to the forthcoming contest from various segments of the population will be avidly scrutinised both in India and abroad. While Kashmir is on the threshold of what may well be a momentous contest, with a long-term impact on the separatist elements in the state, Gujarat will show whether — if at all — and in what manner, the state has recovered from its recent spell of violence.

It is hardly surprising in this context that Amnesty International has expressed a willingness to visit Gujarat. Opinions may differ as to whether the Amnesty is a busybody which is seemingly more interested in probing the underside of life in the developing world than in the advanced countries. But a blunt refusal by New

Delhi to give it permission to visit Gujarat will not enhance India's reputation. At a time when transparency is the buzzword, whether in politics or economics, the closing of a country's borders in this fashion reflects poorly on its democratic credentials. There is little doubt that the decision will be widely interpreted to mean that Gujarat has something to hide.

Since there have been reports that New Delhi is not averse to allowing foreign observers to visit Kashmir during the elections, the directive to the Amnesty to stay away may seem all the more strange. It may encourage those Labour MPs of Britain who have been expressing a desire to visit Gujarat to insist on embarking on their mission, especially when British Foreign Secretary Jack Straw is believed to have raised with the Indian authorities the question of the two British citizens of Gujarati origin who were killed during the riots. However, reports suggest that they, too, may be denied visas. The world is becoming an increasingly smaller and interlinked place where barriers of all kinds are gradually being removed. It is counterproductive, therefore, to try to raise one at present.

Authoritarian impulses

By Kuldip Nayar

49-10

POTA is wrong in concept. Its execution

is bound to be faulty.

22/7

AT TIMES I fear that the Vajpayee Government may unwittingly go the Indira Gandhi way. Failures on many fronts made her impose the Emergency (1975-77), gag the press and erode democratic values. She began with a preventive detention law, MISA, to suppress civil liberties as the present rulers have done by enacting POTA. Long before the Emergency, media men, critics and human rights activists were picked up here and there to pave the way for it. Similar instances are increasingly coming to light. Strange that the present rulers, most of whom were victims of the Emergency, do not seem to realise that their methods are harsh and often go beyond the contours of the law.

That there cannot be another Emergency goes without saying. It will not be legally possible. People will not accept it. There is more vigilance than before because of the NGOs. Yet, conditions can be created where arbitrary actions are taken with impunity. Indira Gandhi subverted established procedures to create the environment of fear. Now, the Vajpayee Government is stepping into chartless territory where authority is becoming the law.

Several civil rights activists, including some journalists, were picked up by the special branch of the Delhi police the other day. It was an open meeting of a committee to convene a larger gathering on Indo-Nepal relations. Some 25 policemen in civvies appeared from nowhere and took the activists forcibly to a nearby police station. They were kept in three rooms where there was no electricity. None of them was allowed to phone relatives or friends, a violation of the Supreme Court guidelines which say a detenu can demand the presence of his lawyer. The activists were not interrogated or engaged in a dialogue. After three hours, they were released without any explanation. However, one policeman sheepishly said:

"There were orders from above".

Who gave those orders? Is there a Government within the Government? Can any citizen be picked up without warrant? Personal liberty is guaranteed by the Constitution. If any legislation gives untrammelled powers to the police, it is POTA (Prevention of Terrorism Act). But the activists were not held under POTA. Had this been the case, they would not have been let off within three hours. What the authorities did was sheer misuse of powers. It is obvious that the Government is administering a warning that anyone in its bad books can be treated the way the activists were. There should be loud and wide protests so that those experimenting with authoritarian ways know they will not go unchallenged. The dangerous aspect is that if such is the attitude of the Centre, what will be the plight of critics and dissenters in the States, where Chief Ministers have become a law unto themselves.

POTA has only given them unquestionable power. Vaiko's detention in Tamil Nadu is one example. The law is wrong in concept. Its execution is bound to be faulty. Many MPs warned the Government at the time of its introduction that it would be misused and that political opponents would be the victims. Still the Government went ahead and got it endorsed at a joint session of Parliament after the Rajya Sabha rejected it. Whether the use of POTA by the Tamil Nadu Chief Minister, Jayalithaa, in the case of Mr. Vaiko was unwarranted or not is debatable. But then the BJP has no face to criticise her. The party is the flag-bearer of the dictatorial law. Politics, as it prevails in the country these days, will see to it that opponents are punished.

Fortunately, the misuse of POTA has come to the fore after Mr. Vaiko's

detention. He is an ally of the Vajpayee Government. Had there been a human rights activist in his place, the BJP would have probably justified the detention. The party describes Mr. Vaiko's detention as untenable. Still it does not admit that POTA is the antithesis of democracy. The NDA's announcement that the Act may be modified to strengthen the safeguards of an individual's liberty is a sad commentary on its earlier assurances that the measure cannot be misused. Political expediency knows no safeguards.

However, Mr. Vaiko has played into Ms. Jayalithaa's hands by repeatedly supporting the LTTE openly and it has evoked little sympathy. It is not only because of Rajiv Gandhi's assassination that the organisation is shunned. It is also because of the apprehension that the LTTE's demand for an independent country will ultimately threaten Tamil Nadu's integrity. The LTTE has been banned as a terrorist organisation in the country. Mr. Vaiko has not helped his cause by aligning himself with terrorism.

I do not know whose pressure has worked on New Delhi — America's or that of multinationals? The CBI, which made a mess of the Bofors gun scandal, is making a mess of cases relating to the Bhopal gas tragedy. It has tried to water down charges against Union Carbide, responsible for the tragedy.

After more than 17 years, it has changed the charge against Warren Anderson, then chief of Union Carbide, from homicide to negligence. Homicide is punishable by 10 years imprisonment while in the case of negligence the maximum sentence is two years. It is an open secret that the Centre has indicated to the CBI not to jeopardise the investment climate. That the Government should

change its mind because of investment is not surprising. What is surprising is the absence of protest. Members of the Bhopal Gas Peedit Mahila Karmachari Sangh and Gas Peedit Nirashrit Morcha recently held in Delhi a dharna and a hunger strike. The public response was dismal. The media almost ignored the dharna. A tragedy makes news, not the relief and rehabilitation of the victims.

In December 1984, five lakh people woke up in Bhopal to a deadly gas leak. More than 8,000 died instantly. The toll by now is well over 20,000. More than 30 survivors of the tragedy die every month. Well over 1.20 lakh survivors are in desperate need of medical attention for exposure-induced diseases. Tens of thousands of children born to exposed parents suffer from growth retardation and worse. Thousands of families are on the brink of starvation because the breadwinners are too sick to work. The Government negotiated a settlement that cost Union Carbide only 43 cents per share, roughly Rs. 10 at that time. About 25 per cent of the victims got a paltry Rs. 25,000 each for injuries they will carry till they die.

The BJP-led Government at the Centre has done another quixotic thing: the Group of Ministers (GoM) on Bhopal has declared that residents of the 20 municipal wards of Bhopal will be given compensation from the balance of the settlement fund. There has been no evidence of exposure of these residents. Tests confirm that. The reason for this step is the BJP's policy of wooing the Hindu vote. The only qualification the residents seem to have is that they are mostly Hindus.

The tragedy took place nearly 18 years ago. But there is hardly any official follow-up. Union Carbide is primarily to blame but the Indian Government's complicity in the crime is most glaring. It has been wilfully negligent in prosecuting the company and its officials.

Conduct surprise checks to curb rights violations, says apex court

TIMES NEWS NETWORK

New Delhi: Shocked at the increase in cases of police brutality across the country, the supreme court on Friday asked state human rights commissions and other civic rights protection committees set up by the different high courts to conduct surprise checks on police stations to find out whether there was any custodial violence or violation of human rights of arrested persons.

A bench comprising Justice R.C. Lahoti and Justice Brijesh Kumar said the surprise checks should be carried out by at least two members of the committee. Counsel Abhishek M. Singhvi and Suruchii Aggrawal, who assisted the court, said that interim reports of the commissions

and the committees suggested that the apex court's directions in the D.K. Basu case were violated by the police.

On February 15, the court had asked states to list the action taken against officials responsible for violating its 11 directives to improve police behaviour towards arrested persons.

According to the National Human Rights Commission (NHRC), Maharashtra and Bihar top the list of deaths in police custody and judicial custody respectively. Of the 1,040 custodial deaths reported to the NHRC, 910 were in judicial custody and 127 in police custody. Two deaths in army custody were also reported.

Of the 910 deaths in judicial custody, Bihar recorded 137 deaths, fol-

lowed by UP at 121, Maharashtra 104, 76 in AP, 55 in Orissa and 48 in Punjab. Earlier this week, the UP police shot dead a young woman medico near Agra, "mistaking" her for an outlaw.

The NHRC received 71,685 complaints of human rights violations, of which 41,984 were from UP. Bihar reported 4,895 complaints, Delhi 4,081, MP 3,105, Rajasthan 2,604, Haryana 2,583, Maharashtra 2,541 and Tamil Nadu 1,562.

The NHRC has recommended the setting up of a Police Security and Integrated Commission, a non-statutory advisory authority, to improve the quality of policing in the country. It has also recommended the institution of 'lay-visitors' to police and jail lock-ups.

8 0 JUL 2002

THE TIMES OF INDIA

CPI-ML seeks NHRC help

Statesman News Service

NEW DELHI, July 12. — The CPI-ML (Liberation) today asked the NHRC to intervene in the "growing incidents of police-highhandedness and violation of human rights in West Bengal".

A three-member party delegation of Bengal unit secretary, Mr Kartik Pal, and politburo members — Mr DP Buxi and Mr Ranjit Abhigyan — handed over the memorandum to the NHRC joint-registrar, Mr ML Aneja, seeking the commission's "immediate and appropriate intervention".

Delegation members cited a series of incidents as cases of police harassment and human-rights violations of its supporters. "The mysterious death of Abhijit Sinha, the arrest of the party's Darjeeling district committee chief, Mr Abhijit Mazumdar, the police firing on party activists in Siliguri and Hooghly districts and the illegal detentio-

n' of a college professor are some recent instances."

These incidents "of indiscriminate police firing on workers, illegal detention and torture of citizens have raised the spectre of the dark days of the late Sixties and the early Seventies in West Bengal when the police had let loose a reign of unmitigated terror and repression". The LF government has rejected the demand for a judicial inquiry into the incidents, the memorandum said.

SUCI demands all-party probe:

An all-party committee should enquire into the alleged torture on those arrested for suspected PWG links, Mr Debaprasad Sarkar, SUCI MLA, said in the Assembly today, adds a report from Kolkata. Conflicting versions of police torture on the accused had prompted him to demand an all-party inquiry committee, Mr Sarkar said. "That would make the inquiry more credible. The committee should try to find

out if Mr Kaushik Ganguly had been tortured in police custody, and if Abhijit Sinha had committed suicide because of police harassment and mental torture."

Wbcuta plea: Mr Anil Bhattacharya, West Bengal College and University Teachers' Association general secretary, today said he had requested the Calcutta University vice-chancellor to ask senior state police officers not to torture Mr Kaushik Ganguly physically and mentally, adds a report from Kolkata.

Conflicting versions of police torture on the accused had prompted him to demand an all-party inquiry committee, Mr Sarkar said. "That would make the inquiry more credible. The committee should try to find out if Mr Kaushik Ganguly had been tortured in police custody, and if Abhijit Sinha had committed suicide because of police harassment and mental torture."

THE STATESMAN

13 JULY 2002

'Torture': Buddha gets it Left and right

■ **NAXAL 'LINK'** | State human rights panel questions 'parallel' inquiry

SANTANU BANERJEE
KOLKATA, JULY 9

BY ordering an inquiry into allegations of police torture by alleged Naxalite conduit professor Kaushik Ganguly, West Bengal Chief Minister Buddhadeb Bhattacharya, instead of deflecting unwanted attention, is actually attracting loads of it and then some flak.

West Bengal Human Rights Commission chair-

man, Justice Mukul Gopal Mukherjee, today questioned the state government's decision to set up a "parallel" inquiry. While partners of the Left Front made several audible noises about "police high-handedness" and "improper police procedures".

Bhattacharya had, on Monday, announced that a state Home Department official would probe Ganguly's



interrogation as well as the suicide of Abhijit Sinha. The Central Excise Department official, who was also questioned by the police for his alleged Naxalite links, killed himself on Sunday.

"What will the Government do if the findings of the two probes differ? These simultaneous, uncoordi-

He explained that after complaints from the families of Ganguly, 26-year-old Tinku Ghosh and Parasar Bhattacharya, who are

CONTINUED ON PAGE 2

Naxal 'link': Buddha gets it from Left, everyone else

He explained that after complaints from the families of Ganguly, 26-year-old Tinku Ghosh and Parasar Bhattacharya, who are accused of having links with the PWG in Midnapore, he decided to initiate an investigation by the human rights commission's senior officers. "But the government's probe won't discourage us," he said.

While Justice Mukherjee said the circumstances leading to Sinha's suicide were still being investigated, Sinha's family is determined to pursue the matter.

His father-in-law Moly Sinha, incidentally, is an officer in the Criminal Investigation Department. Pitching in are partners in the Left Front like the RSP, Forward Bloc and CPI.

Senior RSP leader Kshiti Goswami said: "We cannot tolerate this police high-handedness. We'll bring it up at the LF meeting." The CPI too has conveyed its reservations.

"The police didn't even fulfil the minimum requirement of producing proper documents before taking the suspects into custody," the party's national executive member and minister, Nandalal Bhattacharya, said. And All India Forward Bloc has told the Chief Minister that "we cannot support arbitrary police high-handedness."

Apex court to clear air on rights panel

FROM OUR LEGAL
CORRESPONDENT

9/7

New Delhi, July 8: Does the National Human Rights Commission have the powers of jurisdiction and right to intervene in matters like the arrest of former Tamil Nadu chief minister M. Karunanidhi and the Gujarat riots?

This dispute will soon be settled by the Supreme Court, which today transferred to itself two petitions pending before the high courts of Madras and Gujarat.

The NHRC suo motu had taken cognisance of the Gujarat riots and after its initial report sought further statements from the chief secretary and the director general of Gujarat, detailing the steps being taken to prevent further violence.

Following the appointment of a commission of inquiry by the state government under Justice K.G. Shah, a public trust — Karuna Trust — filed a petition questioning the jurisdictional validity of the

NHRC in the matter.

The Tamil Nadu government also did the same in the case of Karunanidhi's arrest by the present ADMK regime under J. Jayalithaa.

Today, a three-member bench of Chief Justice B.N. Kirpal and Justices K.G. Balakrishnan and Arijit Pasayat directed the Madras and Gujarat high courts to submit records relating to the two cases and asked the apex court registry to fix the matter for further hearings on receiving the records. No date was fixed during the day's proceedings.

Solicitor general Harish Salve, representing the Union government, agreed that there was a substantive question of law involved in it and the matters should be transferred to the apex court.

The human rights panel, on the other hand, contended that it had power and jurisdiction under Section 12 of the Protection of Human Rights Act to inquire suo motu into incidents of human rights violations.

Human Rights 5-7

The commission is empowered by the act of Parliament to inquire into incidents of human rights violations on complaints by various parties.

The NHRC maintained that the mid-night arrest of Karunanidhi violated the guidelines set by the apex court in an earlier D.K. Basu case, detailing the execution of an arrest.

While the human rights commission suo motu took cognisance of the Gujarat riots following the Godhra train carnage, in Karunanidhi's case it had reportedly intervened on a complaint regarding the violation of human rights in the arrest of certain individuals besides the DMK chief.

Salve, however, argued that the NHRC was regularly inquiring into several incidents of alleged violation of human rights in various states and the questions raised in the petitions before the Madras and Gujarat high courts were bound to arise. He said it was better for the apex court to settle the question of law once and for all.

PWG 'suspect' commits suicide, CM orders probe

Statesman News Service

KOLKATA, July 8. — Thirty-year-old Abhijit Sinha, Central excise inspector, took his life yesterday, after the Midnapore Police released him from custody on failing to find any tangible evidence of his suspected PWG links. He threw himself under a local train at Dakshindari, Dum Dum, in North 24-Parganas around 1.30 p.m. yesterday. His body was recovered from the railway tracks. Abhijit is the son-in-law of a deputy superintendent (CID).

His family said today that Abhijit was unable to bear the insult of having been arrested by the police. Abhijit was picked up around midnight on Thursday by a large police force. His death has put the state government on the defensive, with the chief minister and senior officials choosing to remain tightlipped over the incident through the day. Late in the evening, Mr Buddhadeb Bhattacharjee announced a probe by a special secretary (home) to find out if Abhijit had been "mistakenly" picked up by the police; and also if excesses had been committed on him during interrogation.

Abhijit was arrested from his 225 Rabindra Apartment home, on Jessore Road, on suspicion

of conspiring against the state with the People's War Group. He was then released on a personal recognition bond.

IG (Law & Order) Mr Chayan Mukherjee said all signs and symptoms point to suicide. The autopsy report, however, is yet to come in. The cause of the death is being probed by the SRP, Sealdah. But Mr Mukherjee refused to comment on what may have led Abhijit to the extreme step: "That is yet to be ascertained." But he agreed that a person of Abhijit's stature could have suffered from depression if taken into custody. He informed that he was not aware of the proceedings during Abhijit's interrogation.

Why did the police choose that odd hour to arrest him? The police team from Midnapore reached the city late, Mr Mukherjee informed. Moreover, he added, "we normally prefer late hours for such operations". He recalled the arrest of Naxalite leader Asim Chatterjee in the early '70s.

Abhijit was interrogated at Baguiati police outpost that night by the Jhargram SDPO and officers of the Midnapore Police. The police had specific evidence that Abhijit's telephone had been used

Turn to page 6

PWG 'suspect' kills self

(Continued from page 1)

by a friend with PWG links. The PR bond required Abhijit to report to the Midnapore West DIB office, Salboni, on Saturday. When he reported at Salboni, Abhijit was interrogated for three hours.

Mr Kaushik Ganguly, Rajabazar Science College lecturer, Mr Tinku Ghosh, college student, and Mr Parashar Bhattacharya, also of Kolkata, were arrested on Thursday night in connection with the same case. Mr Ganguly's family today filed a case with the state Human Rights Commission alleging that he was tortured in police custody.

Mr Partha Bhattacharya, IG (CID), said Abhijit's father-in-law, Mr Moloy Sinha, is "a fine officer". Mr Chayan Mukherjee, who has had a stint with the CID, also agreed on this score.

But Mr Bhattacharya has alleged that Abhijit was tortured during interrogation at Baguiati and his father-in-law, who went to the outpost, was treated shabbily by junior policemen. Policemen at Dum Dum PS said Abhijit had a friend named Mr Kaushik Biswas, who was wanted in connection with a PWG case. "Officials from Midnapore persuaded him to give a written statement that he would help the police trace Biswas. Abhijit was released only after he signed the statement."

Though Mr Buddhadeb Bhattacharjee and his administration appeared apologetic for Abhijit's death, they were firm on continuing with raids against the PWG. The chief minister said the rights of all political parties in the state, including that of the Naxalite CPI-ML, were guaranteed, and that they are free to pursue political activity. But the state

would not spare groups such as the PWG and MCC, for whom annihilation is declared policy. Members of these groups have killed 10 people recently in Midnapore and Bankura, including a National Volunteer Force personnel, he said.

Incidentally, the state has not banned the PWG, though the Centre has done so under the Prevention of Terrorism Act.

Mr Buddhadeb Bhattacharjee said Mr Kaushik Ganguly confessed to his PWG links and also listed six persons, three of whom have been arrested. Police are on the lookout for three others, of whom two are from Andhra Pradesh.

While reiterating that action against the PWG will continue, the chief minister said the home department will probe if excesses were committed on Mr Ganguly, too.

9 JUL 2002

Authorities failed to protect people in Gujarat: Amnesty

Human Rights

By Our Special Correspondent

NEW DELHI, MAY 28. Observing that the Muslim community in India became "increasingly vulnerable to victimisation by both the State and some Hindu political groups" after September 11 and the attack on Parliament, the Amnesty International Report for 2002 states that the Indian authorities failed to protect people from communal violence in Gujarat.

While the annual report — released here this evening — makes no mention of Gujarat, the violence in the State has been included in the update circulated along with it. According to the update, "Indian authorities failed to protect people from communal violence which led to the deaths of hundreds of people and displacement of thousands" in Gujarat.

Amnesty has recorded the growing discrimination against the Muslim community in the country in the wake of the Sep-

tember 11 attacks in the U.S., and the escalation of tension with the intensification of the VHP's campaign for the reconstruction of the Ram temple in Ayodhya.

Given the climate that has been created in the world post-September 11, considerable attention has been paid to the global reaction to terrorism. Stating that the world had changed radically since September 11, Amnesty noted the speed with which a number of governments jumped on the 'anti-terrorism' bandwagon and "seized the moment to step up repression, undermine human rights protection and stifle political dissent". Also, "there was a greater reluctance by governments to criticise others' domestic policies".

Of the view that the "universality of human rights is facing the strongest challenge yet with double-speak and selectivity becoming the norm", Amnesty has noted with concern the

manner in which the governments rushed through anti-terrorism legislations in the name of security. India, with the enactment of the Prevention of Terrorism Act (POTA), also figures in the list of countries that brought in such legislation.

On Kashmir, Amnesty has placed on record the "passing international interest in the conflict" as the Indian and Pakistani Governments engaged in a "tense build-up of military forces". "However, scant attention was paid to the 100 civilians who were killed there each month."

Releasing the report, the eminent jurist, A.G. Noorani, dwelt at length on India's double-speak on matters relating to human rights. And, in his opinion, politicians of all hues — be it the "great democrat, Jawaharlal Nehru", I.K. Gujral or those who make up the present dispensation — became very guarded on human rights issues once in the seat of power.

THE HINDU

29 MAY 2002

Talibangla Republic

For a country that won its political spurs by renouncing religion as the basis of nationhood, Bangladesh has come full circle. Nearly. Proudly secular at birth, the Bangla polity, under Begum Khaleda Zia, is headed inexorably towards a theocracy. Succumbing to pressures from the Jamaat-e-Islami — a key coalition partner in her government — Begum Zia has embarked on a dangerous course of 'Islamisation'. Having already changed the constitution by replacing the principle of secularism with the "sovereignty of Allah", the government is now contemplating the imposition of strict sharia laws. It recently announced a ban — since revoked — on a number of satellite and pay channels on TV on the ground that they propagate "anti-Islamic" values. The role of the Jamaat in Talibanising Bangladesh is doubly ironic. One, because it was historically opposed to the creation of Bangladesh. And two, because its ideological influence is wholly disproportionate to its political standing. This is of a piece with a general subcontinental trend where ideological extremism, while not being politically powerful, is increasingly setting the terms of public discourse. Of immediate concern in the present context, however, is the terrible impact that this is having on the lives of Bangla minorities.

International human rights groups have extensively documented the rising tide of anti-minority violence in Bangladesh, ranging from rape and killings to desecration and destruction of places of worship. Last December, an Amnesty report pointed to the large-scale involvement of cadres, both from the Jamaat and Begum Zia's own Bangla National Party, in the perpetration of these hate crimes. Among the targeted minorities are not just Hindus but also Christians and Buddhists. This deserves condemnation in the strongest possible language. No religion or political ideology in the modern world can justify the denial of certain minimum rights to minorities. Among them, the right to life, property, equality and religious belief. The persecution of Hindus in Bangladesh is thus not an argument, as many from the sangh parivar have suggested, for the persecution of Muslims in this country. Equally, those in this country who routinely accuse human rights groups of a pro-minority bias should note that the same groups are as solicitous about the fate of minorities elsewhere. Finally, in today's globalised world, national sovereignty can no longer be regarded as inviolable. As in the case of Modi's Gujarat, therefore, the global community must do all it can to reverse Begum Zia's retrograde agenda.

THE TIMES OF INDIA

28 MAY 2002

Rights snub to US team

FROM OUR SPECIAL
CORRESPONDENT

New Delhi, May 21: A US delegation led by assistant secretary Michael Parmly met officials of the National Human Rights Commission and the National Commission for Minorities to get their perspective on the Gujarat riots.

However, rights commission chairman J.S. Verma, who was attending a workshop in Chennai, said there was no need for foreign intervention.

"We have a well-built internal mechanism for taking corrective actions. We have (the) NHRC, (the) Supreme Court and a vigilant and vibrant democracy to take care of such things. There is no need for any foreign intervention on this," Verma told reporters when asked about the concerns expressed by the European Union and some other countries on the rights violations.

"You wait for my next order," he said when asked about the continuing violence in the state.

Rights officials told the US delegation that India was "quite capable" of looking after its minorities. The US, in fact, should have a similar commission, they said. The delegation met commission member Virender Dayal in the absence of Verma.

India is capable of dealing with the issue because it is a vibrant democracy and it has a "pro-active judiciary", the US delegation was told.

Sources said the Gujarat government had failed to file a com-

prehensive report to the rights commission on the communal riots even after the expiry of the extension sought by it.

The rights commission had given the state government time till May 15 to file its response to its "confidential" observations on the situation resulting in the riots. However, the government had sought an extension of 2-3 days to file its response, sources said.

The US delegation called on members of the minorities commission yesterday and wanted to know about various issues pertaining to the minority communities in the country.

Parmly, who deals with racial affairs and human rights, and his team discussed the recent events in India for 90 minutes. The minorities commission members told them there was no problem as such and isolated incidents such as Gujarat could not be seen as a permanent phase in the country.

Anti-India heat in UK

British Prime Minister Tony Blair is under pressure from labour MPs to impose economic sanctions on India "if (the) Gujarat government continues to adopt a policy of discrimination against minorities in its relief and rehabilitation programme".

Addressing a meeting on Gujarat in Boston, the labour legislators and a member of the European Parliament also asked the government to immediately release its report on the violence. Lord Adam Patel told PTI.

THE HINDU

22 MAY 2002

Why blame foreign envoys when we don't behave properly?

Human rights get precedence

THE communal violence in Gujarat, ignited by the Godhra incident, has gone on for two months. It is now affecting seriously India's standing as a tolerant, humane, pluralistic society. All these years India enjoyed unparalleled respect as a society that has been peaceful, compassionate and democratic despite facing a multiplicity of problems caused by material poverty and the struggle to develop. Can the Gujarat tragedy be seen as an aberration or a man-made disaster?

In this post-Cold War period when a nation's economic and technological strength as also its internal peace and regional good relations are all considered part of its strength in security terms, can we afford the international community to blame our policy makers and rulers for something like Gujarat?

The prime minister himself called it a 'blot on the national image'. On the eve of his visits to Singapore and Cambodia he publicly wondered: "With what face will I go abroad after what has happened here?"

Within a week or ten days, however, the PM himself said something else in Goa, "Wherever there are Muslims, they do not wish to live with others. Instead of living peacefully they want to project and propagate their religion by creating fear and terror in the minds of others".

Our largest minority in India is the Muslim minority. Inevitably, the PM's statement attracted adverse comment and he had to issue a clarification. An extremely sane and mild comment, which did not directly refer to the PM's statement, came from Hamid Ansari, immediately after he relinquished office as vice-chancellor of Aligarh Muslim University. He said: "There is a feeling that there is something terribly dangerous about the word Islam, something wrong with the people associated with it. There is no recognition that Islam has contributed in the widest sense to world civiliza-

tion". Ansari was earlier India's Permanent Representative to the UN and Ambassador to Afghanistan, Iran and Saudi Arabia at other stages of his career.

These last six or seven weeks the country, as well as the world have watched all our Opposition parties in Parliament, our National Human Rights Commission, the Minorities Commission, our electronic and print media, as also the international media and scores of observers view in a most negative light the conduct of the Gujarat chief minister and specific members of his Cabinet for not performing their statutory duties to maintain law and order and

96-8 MS
voluntarily and willingly surrendered certain aspects of their state sovereignty to the EU's Human Rights Tribunal. A somewhat intrusive International Criminal Court is in the process of being born.

It behoves India, therefore, as a major humane power to sit up and take note when in the international media one of our chief ministers is called 'Narendra Milosevic Modi' and terms like genocide start being thrown around. All of us Indians need to worry and agonise.

There is already a perceptible reduction in export-related economic activity from Gujarat; dwindling flow of investments into that



S. K. SINGH

As a major power, India should sit up and take note when in the international media one of our chief ministers is called Narendra Milosevic Modi

safeguard the life, limb and property of all classes and communities of the people of Gujrat. By now it is being whispered that certain foreign governments and organisations feel that serious human rights related offences may have occurred in Gujrat.

Today we have to remember that the architecture of international law established after the Second World War was broadly based on the principles and concepts contained in the UN Charter. The world is passing through a period of flux, rethinking and reviewing of several of those concepts. After the end of the Cold War we have witnessed the unraveling of the Soviet Union and of Yugoslavia. The Universal Declaration of Human Rights has acquired greater salience and acceptance. The UN Charter principle on non-interference in the internal jurisdiction of sovereign states, has become blurred and eroded, if not severely damaged. Members of the EU have

state; advisories being issued by foreign governments about visits to India, thus affecting our tourism industry. Anxieties are beginning to be voiced about the potential of trouble affecting Maharashtra, in view of recent stories of the Shiv Sena's statements and extortions and communal highhandedness there. Certain global credit rating agencies seem to be involved in reviewing our country's credit rating.

Can we afford to be seen as a violent society indulging in reckless communal frenzy and talking about a 'final settlement'? Should we be emulating Pakistan at this late stage by attempting to re-write our history textbooks for school children or discourage researchers and knowledge-seekers from the wider world from coming to India, despite the fact that we live now in the age of the Internet and the computer.

Foreign journalists have dug up the earlier statements of some of our

Central ministers who had then stated that Hinduism must be seen as the basic culture of India and that all Indian Muslims must see themselves as "Mohammadiya Hindus". And even the current head of the RSS, K.S. Sudarshan, is being quoted as opining that if Muslims have to stay in India they must submit to the Indianised version of their religion etc.

We cannot blame them if the international community is unable to square all this with the verdict of our own Supreme Court which has consistently held that secularism is an established feature of the basic structure of India's Constitution.

One is reminded of what Frederick the Great had said: "Religion becomes a dangerous instrument when one knows how to make use of it politically". Let us also remember what Vidur Niti had sought to reach us, that when a ruler forgets to apply proper laws and procedures within his state, no neighbour, small or large, will recognise his nation as powerful or well-ordered. Indignation and rancour are concepts foreign to diplomacy. A diplomat need not be a practitioner of penitence, nor a judge in a criminal court, nor indeed a philosopher. He needs always to pursue the national interest. Our diplomats must judge if by asking all foreigners to desist from mentioning the Gujarat carnage to us, they serve the national interest. We have had occasion to criticise Pakistan using religious intolerance to fan hatred of Hindus in Kashmir and elsewhere. We could need to repeat this in the future unless Pakistan suddenly turns democratic and tolerant. We need to be consistent. Let us remember that religion cannot be the most formative influence on diplomatic theory. Diplomatic theory has to depend on common sense. That is why fanatics and missionaries make the worst kind of envoys. The best are rational and compassionate skeptics.

The writer is a former foreign secretary

Human Rights

No respite

5/9 2/9

Relief camps come under attack

The plight of helpless victims of the communal carnage in Gujarat continues to worsen. As if being driven from their homes by marauding mobs who raped and killed their kith and kin, looted and burnt their houses were not enough, they are now being attacked in the camps where they have sought refuge. Traumatized by the horrors they have witnessed, they are waiting for some relief, let alone rehabilitation, but in vain. Narendra Modi has never had any time for the 200,000 refugees created by the anti-Muslim pogrom unleashed by VHP and Bajrang Dal activists. In the two months since the violence began, he has visited the refugee camps only to accompany the Prime Minister. Neither before nor since has he felt impelled to visit those in distress not even to see whether they are receiving adequate relief supplies; all his Cabinet colleagues have followed suit. Modi, after the Goa conclave told the press he was going back to Gujarat to wipe the tears of his people; his understanding is obviously that tears are wiped by more of the same!

There are still 160 camps functioning across the state, 47 of them in Ahmedabad itself. Instead of a decrease in their number a fresh camp has been added in the last few days because of recent arson attacks in Khanpur, Mirzapur and Shahpur which has left hundreds of people homeless. Within two weeks of the violence Modi announced that the camps had to be wound up by 31 May. As an exercise in arguing from the conclusion to the premise it is hard to beat. The inhuman conditions in which the refugees continue to exist — packed like sardines, sitting up all night as there isn't enough room to lie down, lack of water to drink or for ablutions, lack of food, clothes, medicines combined with memories of the horrors and a sense of hopelessness — make Gujarat a living hell. And yet they have no option. In some of the districts where villagers have attempted to return, they have been met with threats, forcing them to return to the camps. Mobs are now attacking the relief camps. This week the Dariyakhan Ghummat camp has been repeatedly attacked by mobs demanding its removal from the area. The MLA from the area and minister for civil supplies, Bharat Barot had written to the state home minister asking for the camp to be shifted as the Hindus in the area feel threatened. When this didn't work, mobs attacked the camps hoping to frighten them into moving. Move to where? Neither Barot nor his government colleagues know or care. But Modi is wiping tears and Modi is an honourable man and so are his colleagues, honourable men!

29 APR 2002

THE STATESMAN

Leaders, police led Gujarat riots, says U.S. rights agency

By CHIDANAND RAJGHATTA
Times News Network

WASHINGTON: Alleging that police personnel in Gujarat were directly involved in the killings of hundreds of Muslims, the New York-based Human Rights Watch organisation has urged the international community to put pressure on the Indian government to end orchestrated violence against Indian minorities.

In a searing 75-page report released on Tuesday, Human Rights Watch also named the Vishwa Hindu Parishad, the Bajrang Dal, the Rashtriya Swayamsevak Sangh and the Bharatiya Janata Party, collectively known as the Sangh Parivar, as the groups most directly involved in the violence against Muslims.

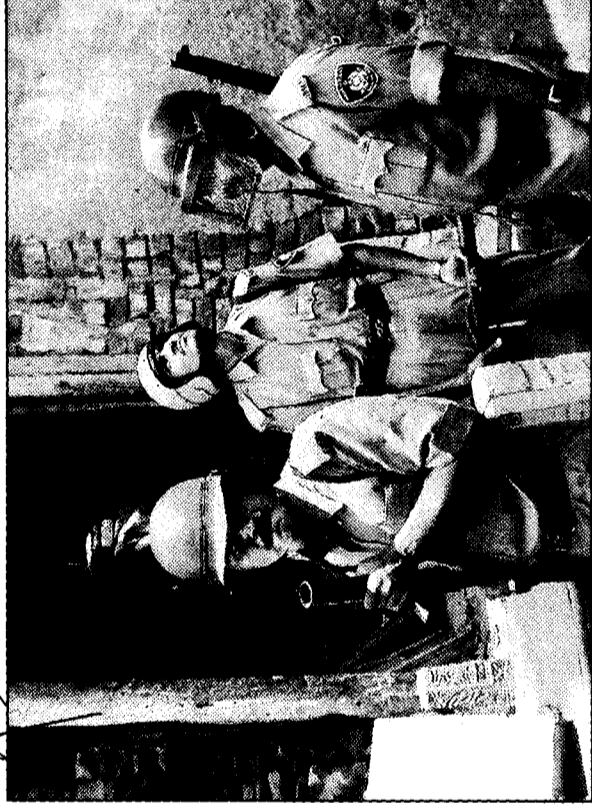
The report said the Gujarat state administration has been engaged in a massive cover-up of the state's role in the massacres and that of the Sangh Parivar.

In holding the Sangh Parivar culpable, the HRW said numerous police reports filed by eye-witnesses after the attacks have specifically named local VHP, BJP, and Bajrang Dal leaders as instigators or participants in the violence. The police, reportedly under instructions from the state, face continuous pressure not to arrest them or to reduce the severity of the charges filed.

In a stinging indictment of the state machinery, HRW also said that in many instances police officials led the charge of murderous mobs, aiming and firing at Muslims who got in the way. In some cases they were merely passive observers, while in others, under the guise of offering assistance, police officers led the victims directly into the hands of their killers, the report said.

What happened in Gujarat was not a spontaneous uprising, it was a carefully orchestrated attack against Muslims, Smita Narula, senior South Asia researcher for HRW who authored the report after visiting the state, said. The attacks were planned in advance and organised with extensive participation of the police and state government officials.

The police were directly implicated in nearly all the attacks



Policemen patrol the Kalapur area of Ahmedabad on Monday.

against Muslims that are documented in the 75-page report titled, 'We Have No Orders to Save You: State Participation and Complicity in Communal Violence in Gujarat'.

Apparently, several witnesses reported being told by police, "We have no orders to save you. Phone calls made to the police, fire brigades, and even ambulance services generally proved futile."

The report also provides testimony on retaliatory attacks against Hindus, with Hindu homes and businesses being destroyed by Muslims. But it mostly documents excesses by lumpen mobs of

Hindu militants and notes that while burnt Muslim shops and restaurants dot the main roads and highways in Ahmedabad, neighbourhood Hindu establishments were notably unscathed.

In calling for international strictures against India, Ms Narula, an Indian-American activist who has worked in the human rights area for five years, described the Gujarat events as a crisis of impunity.

If charges against members of these groups were not investigated and prosecuted accordingly, violence may continue to engulf the state, and may even spread to other parts of the country, she warned.

The report said assistance from international humanitarian and United Nations agencies was urgently needed for Hindus and Muslims in relief camps. It urged the Indian government to actively seek the assistance of international agencies and to invite UN human rights experts to investigate state and police participation in the violence.

The strongly-worded report, direct in its charges, comes at a time when the Bush administration, the Congress, and South Asia hands have been noticeably circumspect in their utterances when compared to some of the EU members.

But there is increasing revulsion here over the continuing violence in Gujarat, and the cynicism with which it is being handled, including talk of weathering the crisis instead of taking action against the culprits and providing succour to the victims. India has so far been lucky in the sense that Israel is having to face a far tougher international scrutiny over its heavy-handed assault on Jenin.

According to both administration and Congressional sources, New Delhi may be getting off lightly on Gujarat because of the crisis in the middle-east and the Western media's obsession with the region.

But the latest report is already making the rounds in Congress, a selective champion of human rights that has so far been muted in its response to the grisly events in Gujarat.

11/8 Camp Despair 2/5

The range of issues which have figured in the parliamentary debate on Gujarat is bewildering. From accusations that Sonia Gandhi was chewing gum to assertions that Indians were like ghee until pseudo-secularists turned them into dalda, our parliamentarians did what they do best — avoid addressing the most horrifying aspects of the situation. In the present case, it is the appalling conditions in the refugee camps where thousands of people have been herded together for over two months. Picture the scene at the Shah Alam camp. Over 15,000 people are living in the dargah subsisting on rations which can barely cover 10,000. In the blazing mid-day heat they have nothing more than a few trees for shelter. The children have nowhere to sleep but on the graves adjoining the dargah. Many have been freshly dug for those who perished in the riots. The hastily erected sanitation facilities, all of seven for the inmates, are falling to pieces. Epidemics like measles have already broken out and children are dying from dehydration and gastric complications. Doctors willing to attend to the refugees have been warned off, indeed one was killed by a mob. The only relief comes from people from the Muslim community and the few NGOs who are working there. Heart-rending stories of people being turned away from the relief camps have been reported in the media, yet the state government's reaction has been to close down seven camps. Their reasoning — Hindus in the adjoining areas have complained that the camps are a threat to law and order.

Much more is expected of the Central government, especially after prime minister Vajpayee visited the camps himself. As he departed, the vigorous disbursement of money stopped as suddenly as it started. There are people living in these camps today who have received nothing by way of compensation. The same Central government which reposes such faith in Narendra Modi appears strangely reluctant to let him handle the relief operations. The recently announced Rs 150 crore relief, a paltry sum given the magnitude of the problem, is to be disbursed through the Red Cross. But, the real challenge lies in restoring to these people the livelihoods and homes they have lost. So far, those who have had the courage to go back to their ransacked homes or establishments have been chased right back to the camps by lumpen elements. A key NDA ally has come up with the proposal to allocate some land to the refugees in another state. Surely accommodating people in ghettos in unfamiliar surroundings is hardly compensation for the traumas they have suffered. But this reflects both the poverty of imagination and the reluctance to do the right thing by the victims. The government should have by now opened proper relief shelters where the basic minimum in terms of clothing, medication and food would be made available to the refugees. Instead of forcing the Modi government even now to make amends, the Central government is busy with its own agendas, the prime one being issuing stern rebuttals to all hints of international concern at the Gujarat violence. But with vigorous national and international media scrutiny, it is impossible to sweep the reality of Gujarat under the carpet. As long as people continue to exist in sub-human conditions in these camps, the prime minister's desire to hold his head high abroad is not likely to be fulfilled.

THE TIMES OF INDIA

2 MAY 2002

US rights group blasts Sangh Parivar

S Rajagopalan
Washington, April 30

THE NEW York-based Human Rights Watch (HRW) has squarely blamed the Sangh Parivar, including the BJP, for the Gujarat holocaust and urged the world community to put pressure on the Vajpayee Government to end the "orchestrated violence against Indian minorities".

In a stinging 75-page report, released today, the group says that what happened in Gujarat was not a spontaneous uprising, but a carefully orchestrated attack

against Muslims. "The attacks were planned in advance and organised with extensive participation of the police and State Government officials," it says.

The group has mooted a UN probe on "state participation and complicity in the Gujarat violence". India itself should invite a panel of human rights experts to visit Gujarat, it says, urging other countries to put pressure on India over the issue.

According to the report, the groups "most directly involved" in the anti-Muslim violence include the Vishwa Hindu

Parishad, Bajrang Dal, RSS and the BJP itself. After the large scale killings, the BJP government in Gujarat is now engaged in a "massive cover-up" operation of its own role, the report says.

The author of the report is Smita Narula, senior South Asia researcher for Human Rights Watch. The report is titled: 'We have no orders to save you': State participation and complicity in communal violence in Gujarat.

Coming down heavily on the Gujarat police, the report speaks of the force's direct implication in nearly all the attacks against

Muslims. "At best, they were passive observers, and at worse they acted in concert with murderous mobs in looting and killing Muslims." In many cases, the report says, the police under the guise of offering assistance led the victims directly into the hands of their killers.

Describing the state of affairs in Gujarat as "a crisis of impunity", the report says that unless those responsible for the violence are prosecuted, violence may continue to engulf Gujarat and even spread to other parts of India.

DOCUMENT

Development as express service

Business
5-13
2514

Projects relating to by-passes, bridges and four-laning of existing sections of the national highways that are financially viable and bankable would be taken up through private sector participation. Eleven projects involving an investment of about \$120 million have already been initiated under the build-own-lease-transfer schemes... The national highway authority of India has been given considerable flexibility to financially collaborate with the private or the public sectors and projects which are not viable on the basis of traffic density will be provided equity/loan support from NHAI. Several other ROB/bypass projects have been proposed under the BOT scheme through state governments. In addition to the projects taken up through private sector participation under the programme of NHAI, some investment would be available under privatization programmes for non-NHAI roads. Thus, given the risk profile of toll road projects and the relative under-development of Indian long-term debt market, private investment in roads is expected to be modest. Therefore, the budgetary support will continue to have a large and crucial role to play in road development.

An overview of availability/accessibility is as following: the railways in India pro-

Accelerating the development of industry and agriculture. From a very modest beginning in 1853, when the first train steamed off from Bombay to Thane, a distance of 34 kilometres, Indian Railways has grown into a vast network of 7,068 stations spread over a route length of 62,495 km with a fleet of 7,206 locomotives, 34,728 passenger service vehicles, 5,302 other coaching vehicles and 2,63,981 wagons as on March 31, 1998. The growth of Indian Railways in the 145 years of its existence is thus phenomenal. It has played a vital role in the economic, industrial and social development of the country. The network runs multigauge operations extending over a 62,495 route kilometre. The gauge-wise route and track lengths of the system as on March 31, 1998 were as under: gauge route km, running track km, total track km — broad gauge (1,676 mm) 43,083 60,550 83,073; metre gauge (1,000 mm) 15,804 16,682 20,343; narrow gauge (762 mm and 610 mm) 3,608 3,676 4,027; total 62,495 80,908 1,07,445.

duct of business, sightseeing, pilgrimage and education. Indian Railways has been a great integrating force during the last hundred years. It has bound the economic life of the country and helped in

vide the principal mode of transportation for freight and passengers. It brings together people from the farthest corners of the country and makes possible the con-



Riding high

duct of business, sightseeing, pilgrimage and education. Indian Railways has been a great integrating force during the last hundred years. It has bound the economic life of the country and helped in

accelerating the development of industry and agriculture. From a very modest beginning in 1853, when the first train steamed off from Bombay to Thane, a distance of 34 kilometres, Indian Railways has grown into a vast network of 7,068 stations spread over a route length of 62,495 km with a fleet of 7,206 locomotives, 34,728 passenger service vehicles, 5,302 other coaching vehicles and 2,63,981 wagons as on March 31, 1998. The growth of Indian Railways in the 145 years of its existence is thus phenomenal. It has played a vital role in the economic, industrial and social development of the country. The network runs multigauge operations extending over a 62,495 route kilometre. The gauge-wise route and track lengths of the system as on March 31, 1998 were as under: gauge route km, running track km, total track km — broad gauge (1,676 mm) 43,083 60,550 83,073; metre gauge (1,000 mm) 15,804 16,682 20,343; narrow gauge (762 mm and 610 mm) 3,608 3,676 4,027; total 62,495 80,908 1,07,445.

About 22 per cent of the route kilometre, 30 per cent of running track kilometre and 29 per cent of total track kilometre is electrified. The network is divided into nine zones and further sub-divided into divisions.

TO BE CONCLUDED

29 APR 2002

THE TELEGRAPH

Human Rights
HD-11 ✓

GUJARAT VIOLENCE / NHRC FINAL REPORT

1/6

'Total failure of State Govt.'

By Our Special Correspondent

NEW DELHI, MAY 31. In a stinging indictment of the Gujarat Government, the National Human Rights Commission today said that it had comprehensively failed to control the persistent violation of the rights to life, liberty, equality and dignity of the people of the State. And that its actions pointed to complicity in the violence that "was tacit, if not explicit".

The Commission, in its final report on the violence in Gujarat, has reiterated the recommendation made in its preliminary report of April 1 to transfer the major cases of arson and killing to the CBI. The final report specifically calls on the Centre — in view of the Rajya Sabha resolution referring to its responsibilities under Article 355 — to ensure that this is done.

The Commission rejected the

Gujarat Government's claim that a transfer of the cases to the CBI would discredit the police investigation stating that "it is central principle in the administration of criminal justice that those against whom allegations are made should not themselves be entrusted with the investigation of the allegations." It said that it would be a travesty of criminal justice if the cases were not transferred to the CBI.

The Commission also said that the Gujarat Government had failed to indicate whether it accepted its recommendation for setting up special courts to ensure expeditious trials. Delays in justice following communal violence exacerbated the climate of violence and mistrust.

The NHRC final report was delayed by the Gujarat Government's requests for more time to respond to its confidential report sent along with its preliminary

report, detailing the Commission chairman, J.S. Verma's visit to Gujarat.

The Gujarat Government failed to send a response. The confidential report included, among other things, allegations against several Gujarat Government Ministers, including the Home Minister, Gordhan Gadafiya, the Health Minister Ashok Bhat, and the Urban Affairs Minister, I.K. Jadeja, of interfering with police functioning and directing the attacks on Muslim localities. The Commission's final report concluded, on the basis of the only substantive communication from the Gujarat Government to its preliminary report, that the latter not only failed to protect the rights of the people of Gujarat, but was complicit in the violence. Its response to the situation was "abysmal, or even non-existent, pointing to gross negligence in certain instances

or worse still, as widely believed, to a complicity that was tacit if not explicit." The appointment of a security adviser to the Chief Minister confirmed this assessment.

The Commission said that while the Gujarat Government in its response accepted its view that there should be transparency and integrity in investigating crimes, its conduct was entirely contrary to this. It pointed out that the majority of the 16,245 people arrested on substantive charges were out on bail. Only eight per cent of Hindus remained in custody while 20 per cent of the 4,882 Muslims arrested were still in custody.

The report said: "This does not provide a particularly reassuring commentary on the determination of the State authorities to keep in check those arrested or to bring them to justice."

THE HINDU

0 JUN 2002

REJECTED RIGHTS-II

Human Rights
SRA

27/4

Counter-Terrorism Cannot Cloak Human Rights Violations

By KOFI ANNAN

When I spoke to this commission in 1999, I said that "no government has the right to hide behind national sovereignty in order to violate the human rights or fundamental freedoms of its peoples". That point is, I believe, more widely accepted now than it was then. A good example of this is found in the recent report on the responsibility to protect, by the Independent Commission which addressed all aspects of the problem. After broad consultations conducted in all regions of the world, the commission concluded that there is a wide understanding that states have a responsibility to uphold and protect the human rights of their citizens. When they fail, or when they themselves become the threat from which the citizens need to be protected, then the responsibility falls on the international community.

Duty

Terrorism is one of the threats against which states have to protect their citizens. They have not only the right, but also the duty, to do so. But states must also take the greatest care to ensure that counter-terrorism does not, any more than sovereignty, become an all-embracing concept that is used to cloak, or justify, violations of human rights.

Any sacrifice of fundamental freedoms in the struggle against terror is not only wrong in itself, but will ultimately be self-defeating. The greatest effort is needed to ensure fair treatment for those most exposed to prejudice, such as religious and other minorities, as well as migrants. Never has the need for tolerance been greater.

Let us remember that diversity is what gives the human species its splendour, and has enabled it to make progress, as peoples of different experience and culture have constantly learnt from one another. Whenever we fail to respect each other's right to different beliefs and forms of worship, or to form different communities with their own ways of life, our humanity is diminished. What we cannot and must not tolerate is the use of violence by members of one community against another. All attacks on mosques, churches, synagogues and other centres of communal life must stop.

Mr Chairman, these issues were already on your agenda before 11 September. Indeed, the very week before that,

we were discussing them at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance.

My point is to stress that what happened on 11 September has not diminished the importance of your agenda, but if anything increased it. The need for effective mechanisms to protect minorities and other vulnerable groups is as



great now as it has ever been. The Commission on Human Rights itself has a vital role to play in devising and overseeing such mechanisms. And in the struggle against terrorism, its role must be complementary to that of the Security Council.

Violations

Of course, the Council and its Counter-Terrorism Committee must themselves be sensitive to human rights as they pursue their vital work. But while the Council has primary responsibility for the maintenance of international peace and security, this Commission has a particular responsibility to promote the international implementation of human rights. Therefore, it must make every effort to protect those threatened by violations of human rights, whether these violations result directly from terrorism or are committed in the name of counter-terrorism.

The political and the human rights bodies must clearly understand that their tasks are complementary, and make a real effort to work coherently together. Only so can we hope for an adequate response to the challenges we now face. And now finally, let me turn to the use of military force.

This may be necessary, in certain cases, to defend us against terrorism, as against

other forms of assault. But let us be careful to use it only in self-defence, or in accordance with decisions of the Security Council. And when we do use it, let us be careful to use it within the law — the international law of war. Targeting civilians, and disproportionate use of force beyond legitimate military objectives, are violations of international humanitarian law, and must be rejected.

Moral clarity and intellectual accuracy are needed in every judgment on the use of force by states. But the same must apply when we judge the actions of armed resistance movements. The killing of innocent civilians violates international law, and undermines the legitimacy of the cause it purports to serve. That, of course, applies also to suicide bombings aimed at civilians, which are as indiscriminate and morally repugnant as they are politically harmful.

Needless to say, Mr Chairman, this is where I think especially of what is now

happening in the Middle East, where international norms of human rights and humanitarian law are being violated on a massive scale. We must all be deeply upset by the spectacle of so many unnecessary deaths; so much destruction and distress; such erosion of restraints and coarsening of moral sensibility. I have already made my position clear in the Security Council, and in direct contacts with the leaders of both sides.

Logic of peace

The parties are now locked in the logic of war. In order to move them to the logic of peace, bring peace and security again within their reach, we must address the core issues: occupation; violence, including terrorism; and the economic plight of the Palestinians. We must also remember that one cause of the current situation has been the persistent denial of fundamental human rights.

The task of the international community, and of this commission, is to help bring both parties back to civilised standards of conduct; to insist on respect for human rights and humanitarian law; and to demand access for humanitarian organisations, as well as respect for freedom of expression.

A start would be for the leaders of both sides to make an immediate declaration of commitment to respect basic norms of human rights and humanitarian law. I solemnly call on them to take this step forthwith. One of the lessons of the history of the United Nations is that it cannot afford to be neutral in the face of great moral challenges. We are faced with such a moral challenge today. Wanton disregard for human rights and humanitarian law is something we cannot accept. We must let those responsible know that they face the verdict of history.

Mr Chairman, I plead, once again, for the respect of international law, including international humanitarian law, whenever force is used — whether by states or by resistance movements. In particular, we need to ensure respect for the four Geneva Conventions. Their purpose is crystal clear, and their wording is broad enough to apply to all armed conflicts, no matter what the specific circumstances. There is no need to reinterpret them. What is vital is that, from now on, they should be obeyed.

(Concluded)

REJECTED RIGHTS-I

human rights

Security Measures Must Be Firmly Founded In law

sr 1 26/4

By KOFI ANNAN

It is always a pleasure for me to join the meetings of your commission. As you know, I have sought, ever since I became Secretary-General, to place human rights at the centre of all the United Nations does. I therefore consider the work of this commission as very important, and I pray particular attention to it. No less obviously, I attach great importance to the work of the High Commissioner and her staff, some of whom take great personal risks in the cause of human rights. Let me pay tribute, especially, to those who have lost their lives in the line of duty.

Prestige

Over the past five years, the United Nations has gained immensely from the presence of Mary Robinson as High Commissioner. She has brought to the office not only the great prestige she had earned in her earlier career, but also — and more important — an unflinching and fearless determination to uphold the cause of human rights throughout the world. The poor, the oppressed and the victims of injustice in every country have reason to be grateful to her. And the task of finding a worthy successor to her is one of the most challenging that I face in the months ahead.

Mary, on behalf of the whole world community, let me thank you for what you have done; let me wish you well in the future; and let me express the hope — but also the confidence — that, in whatever capacity you serve, your talents will continue to be deployed in the cause of justice and universal human rights.

Mr Chairman, this session of the Commission on Human Rights must be one of the most important it has ever held. We meet under the shadow of the desperate situation in Israel and the occupied Palestinian territory, which has become an affront to the conscience of mankind. I shall have more to say about that at the end of my address.

But we also meet in the shadow of what happened in the United States on 11 September last year, and of what has happened in many countries since then, as a direct or indirect consequence. On that day several thousand human beings

This is the text of an address by the UN Secretary-General to the UN Commission on Human Rights in Geneva on 12 April. The concluding part will appear tomorrow.

were brutally deprived of the most fundamental of all human rights — the right to life — by a premeditated act of terror, which many have called a crime against humanity.

That abominable act expressed a state of mind in which human rights cease to

We must continue the struggle to give everyone on this planet a reason to value their own rights, and to respect those of others. At the same time, we must constantly reaffirm the primacy of the rule of law, and the principle that certain acts are so evil that no cause, however



have any meaning. We still do not know — and we may never know — the precise motives of those who committed it. All we know is that, for whatever reason, they had reached a point where human life — their own and other people's — had ceased to count. They were prepared to use any means, no matter how callous, cruel or destructive, to achieve their political objective.

Sickness

That is what we are up against. That is the sickness we have to confront and combat, wherever we may meet it. If follows that we cannot achieve security by sacrificing human rights. To try and do so would hand the terrorists a victory beyond their dreams. On the contrary, I am convinced that greater respect for human rights, along with democracy and social justice, will in the long term prove the only effective prophylactic against terror.

noble, can justify their use. The end does not justify the means. Instead, the means tarnish, and may pervert, the end.

No doubt there is a hard core of terrorists whose minds are already beyond our reach, and against whom we have no choice but to defend ourselves physically — with great vigilance at all times, with exemplary justice when they fall into our hands, and, when necessary, with military force. But let us do all these things in accordance with the law. And let us be careful, in defending ourselves, not to play into the enemy's hands, or to act as his recruiting sergeant.

Vigilance is essential — but in exercising it, let us not lose sight of such fundamental principles as the presumption of innocence until guilt is proved. Nor must we forget that even the guilty retain certain basic rights, such as those laid down in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

Let us beware of falling, in our turn, into the trap of thinking our aim so vital that even the worst of means can be used to reach it. That way, instead of preventing terrorism, I fear we would encourage it. Instead, let us ensure that our security measures are firmly founded in law. In defending the rule of law, we must ourselves be bound by law.

As for justice, it must indeed be both the means and the end of our struggle against terrorism. Mass murderers must no longer go unpunished, whether they are terrorists, warlords or dictators.

Milestone

That is why I so much welcome the historic milestone that was passed yesterday, when we achieved the threshold of 60 ratifications of the Statute of the International Criminal Court. The Statute will now come into force on the first of July, and by next year the court should be operational.

This will not detract from the responsibility of states to prosecute and punish war crimes and crimes against humanity committed by their citizens or within their jurisdiction. Nor will it undermine their ability to do so. On the contrary, it will give all states a strong incentive to improve their standards in this respect, since the court will have jurisdiction only where the state primarily concerned is either unable or unwilling to proceed.

Over time, I believe the practice and procedures of the court will provide a benchmark of international justice, against which the standards of all states can be measured. It is a well-known principle that justice must not only be done, but also be clearly seen to be done. When criminals are punished, no fair-minded person should be able to doubt the justice of either conviction or sentence.

And justice does not mean only punishment of the guilty. It must also mean fair treatment of the innocent. Let us therefore be careful not to place whole communities under suspicion, and subject them to harassment, because of acts committed by some of their members. Nor must we allow the struggle against terrorism to become a pretext for the suppression of legitimate opposition or dissent.

(To be concluded)

THE STATESMAN

Centre drags feet on report to NHRC

Abhigyan Hans in New Delhi

April 25. — The Centre is yet to submit its report on Gujarat to the NHRC even as commission officials have been compiling material — including media reports and representations by voluntary organisations and individuals. The full commission, headed by Mr Justice JS Verma, may take up the matter for hearing next week after the Centre submits its response to the NHRC's recommendations by 30 April, an official said.

Gujarat has submitted its report to the commission. According to the NHRC's 1 April order — containing its first set of recommendations of "immediate character" — the Centre, too, was supposed to furnish its response within two weeks. Last week, however, the government had sought an extension till 30 April.

A Union home ministry letter, written after an NHRC reminder, stated it was still in the process of gathering necessary information from the information and broadcasting ministry, departments of rehabilitation, women and child development and other agencies.

Taking exception to Gujarat's handling of the violence, the commission has sought a CBI probe into "certain critical cases," including the Godhra carnage, because of "widespread lack of faith in the integrity of the investigating process..."

(The National Commission for Minorities has rejected Gujarat's ATR and asked the state to follow its recommendations, adds PTI.)

An NHRC official said the commission is "also keeping a keen eye" on the two court cases pertaining to the Gujarat outrage. Following a plea by the NHRC, the Supreme Court on 2 April had stayed all proceedings before the Gujarat High Court on a PIL challenging the commission's jurisdiction to probe the communal violence in the state under Section 36 of the Protection of Human Rights Commission Act. On 27 March, the Gujarat High Court had issued notices to the NHRC and Gujarat government on that PIL.

THE STATESMAN

Centre seeks time to reply to NHRC report

By Our Special Correspondent

NEW DELHI, APRIL 18. The Central Government has asked for time till month-end to submit its response to the National Human Rights Commission's (NHRC) report on the Gujarat violence.

The NHRC had, among other things, asked the Centre to provide proof that it had not failed in its primary and inescapable responsibility of protecting the fundamental rights of the people of the State.

The Centre's letter comes after an official reminder from the NHRC, which had given it and the Gujarat Government until April 15 to file responses. The State Government submitted its reply on April 15.

In its letter, the Centre said that it needed time to collate information from different Ministries in respect of some of the panel's recommendations. It was considering four of the NHRC's many recommendations, and the remainder of the report pertained to the Gujarat Government.

The Centre added that it was collecting information on issues pertaining to the handing over of cases of mass killings to the Central Bureau of Investigation, providing special assistance to destitute women, rape victims and orphaned children and a viable plan for rebuilding homes. It was also utilising the media, particularly All India Radio, to restore confidence in the State.

'No measles outbreak'

The Gujarat Health Minister, Ashok Bhatt, has denied reports of a measles outbreak among the inmates of the relief camps.

Mr. Bhatt, who along with the Union Health Minister, C.P. Thakur, reviewed the relief provided to the riot victims, said that only eight cases had been detected in five camps. However, as a measure of abundant caution, vaccination in the relief camps was being intensified. The inoculation, which was confined to children below five, was now being extended to those till the age of 15.

At a press conference, Mr. Bhatt asserted that the State Government was taking all measures to provide relief to the victims and that elaborate arrangements had been made for this purpose. Dr. Thakur said that the Centre had decided to sanction an additional consignment of medicine, worth Rs. 8.26 crores, for use in the relief camps.

Rights group chides U.N. over China

12/2
GENEVA, APRIL 11. China will escape scrutiny of its human rights record at the United Nations Commission on Human Rights precisely at a time when abuses are increasing, Human Rights Watch has said. The deadline passed on Wednesday for delegations to file resolutions that condemn a particular country for human rights abuse.

"The failure of the China resolution is a diplomatic fiasco," said Reed Brody, Advocacy Director for Human Rights Watch. "China's human rights record couldn't be clearer, and members of the Commission should be very embarrassed." This is only the second time since 1990 that a China resolution has not been tabled in Geneva by either the European Union or the United States. In 1995, a China resolution came within one vote of being adopted, and since then, the Chinese Government has lobbied vigorously to keep any resolutions off the agenda. Neither the U.S. nor the E.U. appeared to put a high priority on getting China on the agenda of the Commission this year. Human Rights Watch was particularly critical of the European Union and its member-States for today's debacle. On March 11, 2002, the E.U. Foreign Ministers met in Brussels and expressed concern about the "lack

Human Rights HR-15
of respect for human rights in China, including the freedoms of expression, religion and association." The E.U. declined to sponsor a China resolution, but did leave open the possibility of an individual E.U. member sponsoring a measure. However, no E.U. country stepped forward. The Bush administration expressed interest in supporting a resolution if one were tabled, but without a seat on the Commission this year, the U.S. could not be an original sponsor.

In April 2001, a China resolution sponsored by the U.S. was blocked by a "no action" procedural motion by China. That motion was adopted: 23 yes, 17 no, 12 abstentions, and one absent.

Human Rights Watch said it had documented increasing human rights violations in China over the past year, fuelled by Beijing's preoccupation with stability in the face of social and economic upheaval. China launched a massive anti-crime campaign last April, leading to thousands of arbitrary arrests and summary executions; efforts to organize independent trade unions have been crushed; and officials have carried out an intense crackdown on the Falun Gong and unofficial religious groups of all kinds.

11 APR 2002

THE HINDU

If you don't like them, set them on fire

A summary of the pamphlets being circulated. Obituary/announcement of "Besna" of one of the Godhra victims: this seeks to make a martyr of one of the victims of the Godhra tragedy, reminding everyone of his sacrifice.

Boycott of Muslims: signed in the name of a "true Hindu patriot" this one urges all Hindus to boycott the entire Muslim population in all possible ways. Some of the suggestions include not hiring them, or working for them in their establishments, not buying from, or selling to, them; not watching films in which Muslim actors/actresses have worked. If they fail to do so, they are threatened in the name of Hanuman and Ram.

Rise! Awaken!: slogans of "Hindustan Zindabad" go along with slogans of "Jai Shri Ram". It aims at coaxing Hindus to stop bearing "Muslim atrocities" that they have been inflicting on Hindus for long. It's time to rise up against them. This one is signed in the name of Paramhans.

A highly confidential letter of the Rashtriya Swayamsevak Sangh: this is the most vicious of them all. It lists 34 ways in which to harm/kill/isolate all minorities. Some of these methods include injecting their newborn with slow poisons by enlisting Hindu doctors, accumulating arms, boycotting all secular programmes, encouraging the use of alcohol and drugs in areas dominated by minorities. It also says that such activities should be reported to the office in Nagpur where they can also obtain further information, if required.

Historical decision regarding the Quran: an order passed by a metropolitan judge. A booklet including a judgment of a Delhi court, misquoting Vivekananda, Quran, Shri Arabindo and M.K. Gandhi in the wrong context to suit their objectives. In order to avoid mentioning rectifications by these great people, they have not indicated the timing of their statement. This is being misused as propaganda against the minority...

Prominent establish-

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March, 2002

ments/shops burnt, looted, destroyed and their location with respect to police stations:

Textile shops in Mangal Bazaar, Nyaymandir and Nava Bazaar: At least 70 shops, all belonging to Muslims burnt, looted, destroyed completely, right in front of the police, within 100 to 150 meters from the Nyaymandir



After the deed

Police chowkie and Nava bazaar police chowkie.

Shoe World, Tower shoes, Snow White Laundry, Tower Jeans: within 10 to 25 meters of the Shiyapura Police chowkie in Raopura.

Optic Palace, Sujat Pharmacy: within 50 meters from either police chowkies; Shiyapura Police chowkie and Ahmedabadi Pole police special picket.

Deluxe Optical — right in front of Jubilee Baug special police chowkie.

Indian Boot House, M. G. Road, plus five other Muslim shops: within 100 meters from both the Laheripura Police chowkie and the Mandvi Police Station (Head Quarter).

Optical Palace, Alkapuri and a row of shops next to Optical Palace Raopura: within a stone's throw (not more

than 100 m) of the official residence of the Police Commissioner and the Collector, Vadodara, and the Circuit House.

Shops/factories/garages and other establishments burnt/looted/destroyed:

2 shops in Dandia bazaar; 2 shops in Hazarat Paga; 15 shops belonging to Pratapnagar mosque; 15 factories in Pratapnagar industrial area and one major firecracker godown at Diwalipura (18 kilometres from Vadodara); 3 shops in Alkapuri, one Snowwhite Laundry and 2 hardware shops on Productivity Road — one opposite BPC and one opposite SBI; factories in G.I.D.C. Makarpura, Baranpura, Sara 15 shops and 1 bakery Sama 5 shops; 25 garages/factories in Kareli Baug Kabrastan; shops and factories on the National Highway Bypass; 15 shops in Manjalpur, Makarpura and Chhani; 18 factories in Sardar Estate, Ajwa Road; at least 4 shops on Gotri Road/Race Course and one opposite GERI; 3 shops on Ellora Park/High Tension Road area.

Houses: burnt/looted/destroyed:

6 houses in Salatwada, Raopura, 25 houses in Fagvel Nagar, Bhutadi Zhampa; 120 of 125 houses in Kisanwadi, 6 at Kasamala Kabristan; 5 in Bajwada; 185 houses in Nool Park in Tarsali area and 28 in Vishal Nagar, Govind Nagar, and Vijay Nagar, 3 houses in Chippwad; 15 houses in Hujarat Paga; 65 houses in Gotri, Gokul Nagar, Ambika Nagar, Mahinagar, Laxmi Nagar, Ayodhyanagar, Ramdevnagar: 40 houses at Kapurai Highway bypass; 12 houses in front of Best Bakery; 3 houses in Sardar Estate (Ramnagar); 5 houses in Chabukswar Mohalla; 80 houses in Indira Nagar and Adarsh Nagar in Makarpura; 1 house in Dandiya Bazaar and one on Piramitre Road, 8 houses in Sayajipura; Baranpura, Sara 25 houses; Jubilee Baug Sardar Bhavan meeting Khancha, one house; 25 dwellings of poor in Gotri village and 25 hutments in Gorwa area; 30 houses in Bhayli-Laxmipura area on the road to Padra.

CONCLUDED

Human rights abuse on the rise in Nepal

By KOSMOS BISWOKARMA

KATHMANDU: The human rights situation in Nepal has worsened after emergency was imposed by the government to combat Maoist guerrillas, a report says.

There were 10,132 cases of human rights abuses in 2001, of which non-state parties, namely, the outlawed Maoists, committed 5,876 violations and the state 4,256, says the report by the NGO Informal Sector Services Centre (INSEC) released here late Tuesday.

The Nepal Human Rights Yearbook 2002 says both non-state parties and the state have violated human rights in the last one year. It says the situation became alarming after November last year, when Kathmandu declared the Maoist rebels terrorists and imposed emergency in the country.

The INSEC report said the Maoists, who have been waging a war to overthrow Nepal's constitutional monarchy since 1996, have killed 405 people since the emergency, while the security forces

have killed 1,077 rebels.

But the government claims that the Royal Nepal Army, the Nepal Police and the Armed Police Force have killed more than 1,300 people.

The report claimed 28 journalists and eight human rights activists are still in custody. They were detained after imposition of emergency.

International journalists' groups, like the New York-based Committee to Protect Journalists (CPJ) and Paris-based Reporters Sans Frontiers, have time and again warned Nepal not to arrest media persons and to ensure the freedom of the press.

INSEC general secretary Subodh Raj Pyakurel said the 482-page report had not been able to incorporate all incidents of rights abuse that occurred last year due to lack of enough evidence.

"There are Maoists on one side and the security personnel on the other, so we are the ones to speak for the people," said Mr Pyakurel. (Indo-Asian News Service)

A stone's throw away really

*1-11
10/94*

About an hour after the mob had gathered outside the house, a police jeep and van arrived. The mob dispersed in the neighbourhood, while J.S. Bandukwala and his daughter were escorted to safety by the police. When the fire brigade arrived to put out the fire, they were prevented from doing so by the mob which had regrouped there. The Hindu neighbours of Bandukwala, who had sheltered the people trapped in his house, went into hiding for 3 or 4 days, fearing an attack for having sheltered their Muslim neighbour.

One shop, Dua Optical, was also threatened by the mob because there was a Muslim employee working there; shop-owners from the Amar Shopping Complex pleaded with the mob that the shop was owned by non-Muslims, and it was spared.

On March 1 and 2, ... mutton shops in Sanjaynagar were completely demolished... The area occupied by three of the shops in the lane leading to the Sanjaynagar slum was converted into a Hanuman temple...

In addition to the above incidents, the residence of a Muslim businessman, Mr Safary (married to a Hindu), was completely burnt in the Swati area. Another house was attacked near Chhani... On the night of March 1, a rumour went around that 3 trucks full of Muslims had gathered and were preparing to attack. Housing societies were rung up and warned to be prepared for the attack. The source of the rumour and the phone calls to societies appears to be the ward councillor, Pradip Joshi.

People were unable to say where the mobs had come from, although Abhiyan

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March, 2002

members residing in the area did see several groups emerging from the Sanjaynagar slum on the first and second day of rioting. People in Shuklanagar said that the mob came from Swati. Abhiyan members have not been



Keep safe distance

able to confirm the number of arrests made in the area. Sama did not see any incidents on March 15 or later. We spoke to several people in the area. While some shopkeepers and rickshaw-drivers did condemn the attacks, we also met people who justified them, as well as one rickshaw-driver who told us that he participated in the attacks.

Curfew was on in the area since March 4; by March 2, Sama area seemed to have reverted more or less to its normal routine, barring the very

meagre presence of rickshaws on the roads. However, a certain level of tension remains, especially at night, by persistent rumours about impending attacks by Muslims.

...Mosques and dargahs destroyed/ burnt/ damaged right in front of the police presence: location and distance from the nearest police station/ chowkie/ picket:

Mir Bakarali mosque (Raopura), Dandiya Bazar — within 250 metres from two police chowkies (Shiyapura and Dandia Bazar); Salatwada mosque — less than 150 m; Jaliwala Pir's Dargah, near Sayaji Hospital — right in front of Nagarwada police chowkie (ladies' cell); Haji Hamja mosque (Chhipwad) — immediately behind city police station, Mandvi; Begam saheb's mosque (Navabazar) — less than 200 m, Rokadnath police chowkie; Dargah near Bajwada Naka — less than 200 m; Madina Mosque at Tajgira Kabrastan, Kareli Baug Road — about 300 m from Kareli Baug chowkie, Navi Dharti; Bade Hazarat Saheb's Dargah, Kareli Baug — about 1 km from Bahucharaji police chowkie, Navi Dharti; Baranpura mosque — within 150 m from the Wadi police station; Mosque under the overbridge at Pratap Nagar — within 100 m from the Pratap Nagar police training college; Tarsali mosque — about 1 km from the police chowkie; Makarpura mosque — near police parade ground; Dargah near Udyog Nagar, Ayurvedic Hospital, Panigate — less than 200 m; mosque in Kisanwadi — 1 km?; mosque/madrasah in Nava Yard-Chhani Rd — 2 kms from Fatehganj police; Noor Park, Tarsali Waghodia Chowkdi Dargah — 2 kms.

TO BE CONCLUDED

Why the control room did not respond

Gr 11
9/14

March 1 saw more intense rioting activity, with larger, well-prepared mobs roaming the streets. A tailor shop in Abhilasha (near Maruti Super Store) was burnt, and Robe Laundry and another laundry ..., both Muslim-owned, were looted and burnt in Abhilasha. From Abhilasha/Swati area, a mob of around 300 move on to Shuklanagar.

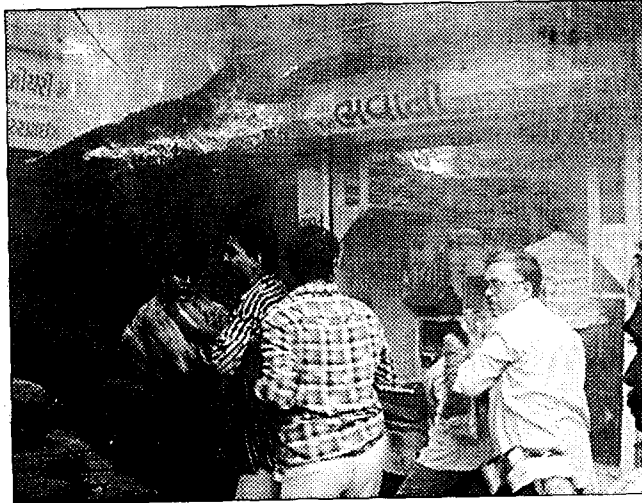
Shuklanagar is a mixed locality of Hindus and Muslims. The settlement is somewhat unusual in that the overwhelming majority of residents, both Hindu and Muslim, are "from outside (*pardesh*)", i.e. from Uttar Pradesh. They have settled in Vadodara over the course of the past 25-30 years, but retain links with the "*desh*" (UP). A few of the residents work in industries as casual labourers, some have vegetable handcarts, and many work in small tailoring and furniture enterprises which are Muslim-owned, but employ Hindus as well as Muslims. There were some 4 policemen on duty near one entry point to Shuklanagar. The mob attacked from the other side at around 11.30 am ... with shouts like "*Maaro Mian ko*" (kill the Mias), and "*Bharat Mata ki jai.*" The residents held off the attackers, who were armed with sticks, swords and petrol bombs, for several hours. Muslims and Hindus both participated in resisting the attack. The policemen stationed at the other end of the colony did not enter the picture. While the mob lobbed petrol bombs, they were unable to set fire to the houses or the mosque, though they managed to burn a moped and the laundry *larri* of a Hindu *dhobi*.

After more than 3 hours (around 3.00 pm) police reinforcements arrived and the mob dispersed. Around 25 men from Shuklanagar suffered injuries; two men with head injuries were admitted to Narhari hospital in Fatehganj. (They have been treated and discharged.) The 300 or so Muslim residents fled the area, and took shelter in Kamatipura. Hindus remained in the locality, many of them sleeping for several days on the terrace of a "local" (Gujarati) Hindu living at one end of the colony. This person said that he had

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March, 2002

an army officer for a tenant, through whom it was arranged that two armed army personnel were stationed outside the house for several days. On the night of March 2, a small mob of around 25 people made another attempt to set fire to houses in Shuklanagar, but were repulsed. Residents of

probably by the same mob — and completely burnt. Anticipating trouble, the family had left the house a day or two earlier. When they were finished with the Pirzada residence, the mob moved on towards the nearby residence of J.S. Bandukwala. While Bandukwala had been evacuated about an hour earlier, his daughter and 5 Abhiyan members from the neighbourhood remained in the house. An autorickshaw arrived with two LPG cylinders, which were stored in a nearby Hanuman temple. The mob, numbering between 200 and 300, tried to advance towards the house, but was kept at bay for over half an hour by the two armed po-



While Gujarat burned

Shuklanagar have been without any income since March 1, since all economic activity came to a complete standstill after the attack. They estimate the daily collective loss in earnings as Rs 25,000-20,000. The Muslims explained how they had been living at the mercy of others (*doosron ka kha rahe hain*) in Kamatipura, where the Muslim community arranged for food for them. Hindu residents have been equally affected, since most of them work in the local small enterprises. The Muslim residents did not return till the 17th/18th, and most of the families left after that for their villages in UP "for 2 or 3 months, till things calm down".

Around the same time that the mob retreated from Shuklanagar, the residence, near Amar Complex, of Iqbal Pirzada, a retired government official, was attacked —

licemen stationed outside the house. Repeated calls to the police control room and various police stations all elicited the response that no police personnel or vehicles were available to help. Two calls to the collector on his mobile phone yielded an assurance that police help would be sent, but this arrived only some 45 minutes after the second call. (Thereafter the collector's mobile was shut off, as was the police commissioner's throughout.) Meanwhile, part of the mob attacked the house from behind, where there was no police protection. The people inside the house managed to escape over the wall to the (Hindu) neighbours when heavy stoning began. The mob then took to stoning the neighbours' house as well, and set fire to the Bandukwala residence.

TO BE CONCLUDED

Those who aid and abet mob fury

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8/11*

Needless to say, cross-referencing and verification of details would need active cooperation from many governmental sources. We have tried to ensure accuracy by interviewing, individually and jointly and over several days, several people from both communities.

The following are names that came up again and again: municipal councillors, Pradip Joshi (Ward no. 12) and Bharat Shah reportedly incited and sanctioned the mob violence; they are supposed to have been in constant touch with the "rioters" as well as the police. Local residents, Rajubhai, Dilipbhai and a person known as Painter, played an active role in leading and urging the mob.

PSI Vaghela of Fatehgunj police station, reportedly, was very violent in his demeanour. He is supposed to have beaten the arrestees with an iron rod; *Haveladar* Ghanshyam was also singled out for his abusive behaviour.

The Sama area of Vadodara falls under Ward 12. It is a relatively newer part of the city, having mostly come up since the mid-1970s, and has a predominantly Hindu population. This area has never experienced disturbances in earlier communal riots in the city. In the present riots, however, a number of serious incidents took place here. On the night of Feb 27, a Muslim-owned mutton shop was burnt in Sanjaynagar and three neighbouring mutton/chicken shops, also Muslim-owned, were destroyed.

On the morning of Feb 28, around 10 am, a small mob of around 20 people attacked the residence of J.S. Bandukwala, a well-known and respected figure in Vadodara and active member of the PUCL, who has over the years consistently opposed both Hindu and Muslim religious

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March, 2002

extremism. Bandukwala and his daughter managed to take shelter in the house of their Hindu neighbours. One car in his compound was completely burned and the other damaged by the mob. The attackers fled within 10 minutes, when people from the neigh-



Only a sample

bourhood came out on the road. Police arrived about 20 minutes after the attack.

In the course of that day and the following day, a number of Muslim-owned *larrigallas* were burnt: four fruit-sellers' larris and a cotton mattress larri at Swati market, another larri at Abhilasha, and larris at Nutan Vidyalay corner. A Muslim-owned bus was burnt on New Sama Road on the morning of Feb 28. According to local people, a residence was attacked and burnt in Chanakya-puri the same day. By evening, there were burning tyres and other material at many

places in the Sama area.

On the evening of Feb 28, a few persons living in Sama went to meet the councillor, Pradip Joshi (who also happens to be the Vishwa Hindu Parishad boss for Ward 12), to appeal to him for peace in the area. He said that he would not be able to control the mob fury, especially since these were "uneducated people". He ranted at length about the unpatriotic and criminal nature of the Muslim community (for instance, their habit of abducting Hindu girls), and dwelt on the desirability of Muslims going and living in their *ilakhas*. He also produced a list which, he explained, showed the voting patterns in the recent assembly bye-election, and how Muslim localities had voted against the BJP. On being repeatedly asked whether he could assure that there would be no further violence in the area, he replied that he could not do so, and one of his associates explained that what had happened that day was "only a sample", and that it was best to be prepared for what would follow the next day. Joshi spent some time describing how he had dealt with Muslim "anti-socials" in Navayard. Navayard saw severe attacks on Muslims in the days to follow. Around 9.00 pm that night members of the Vadodara Shanti Abhiyan staying close to Bandukwala's house discovered that he had not been provided with police protection after the attack on his house, despite his request. After prolonged efforts, two armed policemen finally arrived at Bandukwala's residence at 11.00 pm. At 2.00 am, they declared that they were leaving as their duty was over, but were persuaded to stay on till 5.00 am. They returned again at 10.30 am the following day.

TO BE CONCLUDED

When the marauders came calling

At Navayard Cabin D Area, Zahir Khan Bisimillah Khan Pathan, age approximately 18, killed on the spot; the mob continues to pelt stones; 10 goats stolen; PSI Rabari injured; the police then direct their firing on the mob; 1 killed (Manish, aged 19, who was not part of the mob, but was watching); police arrest 48 Muslims of Roshannagar ... mostly dragged from their houses; many injured and beaten during arrest; taken to Fatehgunj police station, released on bail the following day; local Hindus arrested for "rioting"; released on bail the following day.

...The first attack on Roshannagar was at 9.30 am on March 1. Primarily women and children were only present in the area...since most of the men had been arrested the previous night itself. Two mobs attacked simultaneously. The first mob came from the general direction of Amarnagar, the second through the large ditch in front of Roshannagar. The first mob was around 500 strong; the second...around 400 strong. Both the mobs were constituted mostly of outsiders; some locals were also part of it. A few women as well as policemen were also involved. They were all armed with swords (*talwar*), knives (*dharis*), spears (*bhale*), iron rods and sticks.

The second attack on Roshannagar was attempted at 1.30 pm on the same day when a mob of at least 2,000, including outsiders, gathered in the open fields at Navayard Cabin D area. In the resultant police firing 2 youths died. The mobs involved were definitely well organized and led, going by the well-planned nature of the attacks. VHP and Bajrang Dal cadres, wearing saffron bands, seem to have directed the attacks...

... Two youths lost their lives. The amount of damage to property, even at a cursory survey, is huge. Five houses were burnt; other houses were looted; 1 tempo van burnt; 1 motorbike burnt; nearly 30 *larris* burnt/looted; 1 autorickshaw burnt; 2 autorickshaws damaged; 1

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March, 2002

chappal shop was burnt and looted; one...cloth shop cum vegetable godown was looted; chemicals for making detergents, bleach and blue spilled and the storage room completely destroyed.

...There had been tension prevailing over the area under survey from February 27. The situation had worsened by the 28th with mobs returning from a special 86 Village Samiti meeting held expressly in the wake of



Fractured hope

Godhra... When the alarmed Muslims used loudspeakers to warn the community, a complaint was lodged. Police responded to this complaint with alacrity and 21 Muslims were arrested from their homes on February 28. They were taken to Fatehgunj police station and mercilessly beaten up while in the lockup. Welts and other marks were visible to us even after more than a week on March 7. Two (Ali Nabi Bholey Khan, aged 40, and Mohhamed Umar Abdul Latif, aged 35), were beaten so badly that they needed to be taken to the jail hospital. When they cried out loud in pain, they were warned not to scream. When they refused to chant "*Sabse bada Hanuman*", they were

beaten up more and made to sit cross-legged with policemen jumping on their thighs. They were told to go to Pakistan, to go back to Uttar Pradesh and their Mulayam or to their *Sonia-ammi*. For 24 hours they were not given either food or adequate water. They were not allowed to urinate, and when they asked for water, they were told to drink urine. Bearded men, including Maulana Mohhamed Yusuf and Abdul Sattar, had their beards pulled and police threatened to cut them off... They were not produced at the Circuit House, but were shut up in the police van outside the Circuit House before being remanded to the Central Jail. They were charged under sections 137, 143, 144, 153, and 188 in contrast to Hindus arrested the next day who were charged with section 188. The latter were released on bail the very next day, while the former were released on bail only on March 5, 2002.

The police who successfully thwarted the mob from moving towards Roshannagar at around 1.30 pm on March 1, proceeded to systematically arrest 48 Muslims of Roshannagar. They were *gharpakad* since they were literally dragged out of their homes. From our interviews we gather that this process of arresting was violent: they broke doors and furniture, beat people indiscriminately, used abusive language, loaded with sexual and religious overtones. In fact, a 65-year-old man was beaten senseless and his hand was fractured. The lockup story of these 48 arrestees also is much too similar...Revolvers were pointed at them with the threat that they will become a part of the statistics of "encounters."

In contrast to such alacrity on the part of the police personnel, during "riots" their procedure was one of studied inaction that only aided and abetted the mob violence. We gathered that, as of today, no FIRs have been filed against any of the parties concerned in this area.

TO BE CONCLUDED

'NHRC REPORT A STRONG INDICTMENT'

Modi must go: Opposition

By Our Special Correspondent

NEW DELHI, APRIL 2. The Opposition parties today seized the opportunity provided by the National Human Rights Commission (NHRC) report on Gujarat, to demand the resignation of Narendra Modi as the Chief Minister. Both the Congress and the Left parties said that after the NHRC report, there was no justification for Mr. Modi to continue in office.

The Congress spokesperson, Jaipal Reddy, said the NHRC report was a strong indictment of the Modi Government and by implication, a serious reflection "on the relevance and efficacy of the so-called judicial commission of inquiry ordered by the Gujarat Government". The Left parties, particularly the CPI (M), plans to launch a movement with some secular Opposition parties to press the demand.

Mr. Reddy termed the report as accurate but also "an essay in understatement". He said it was judicious to the point of erring on the conservative side, but it had captured the situation prevailing in Gujarat for the past five weeks.

The CPI(M) said the NHRC's findings against the Gujarat Government made it imperative that Mr. Modi be removed from the Chief Ministership without which no credibility could be restored in the State administration.

In a statement, the CPI(M) politburo said the party was consulting other secular Opposition parties so that a united movement could be launched, on Mr. Modi's removal, after Parliament reassembles on April 15 after the recess.

The CPI(M) said the NHRC report confirmed what was widely known about the culpability of the BJP State Govern-

ment in its "failure to protect the lives of citizens belonging to the minority community and, worse, for the connivance of the State machinery in the shameful incidents".

The party urged the Vajpayee Government to ensure that the NHRC recommendations for handing over the investigation into the worse crimes to the CBI and the setting up of special courts to try the culprits were implemented. The CPI(M) urged its State units to collect medicines for the people living in the relief camps to be sent to Gujarat immediately.

The CPI saw the NHRC report as a "strong indictment and condemnation" of the Modi Government. The party charged the State Government with "serious failure of intelligence and action and its failure to protect life and property of the people".

It said the continuance of the Modi government would tear

the social fabric into pieces further and "pose a grave threat to the future of the Gujarat and the country as a whole."

"It has been conniving with all horrendous crimes in Gujarat," a statement of the CPI national executive said.

Expressing similar views, the CPI-ML (L) welcomed the timely intervention of the NHRC into the matter. It said the Modi Government had ceased to function during the communal riots and it had rather "degenerated" into an instrument to "murder democracy".

Curfew in Anjar

By Manas Dasgupta

AHMEDABAD, APRIL 2. Police have claimed that they have detected "ISI hand" behind the disturbances in Anjar as the earthquake-ravaged border district of Kutch was hit by violence for the first time today since the disturbances began in other parts of Gujarat in the aftermath of the Godhra train carnage on February 27.

An indefinite curfew has been clamped in Anjar after the State Reserve Police Force was rushed from Bhuj.

Elsewhere in the State, at least two persons were killed and four injured in police firing in Umreth town in Kaira district in central Gujarat, while four persons were stabbed.

The Vadodara city police commissioner, Deen Dayal Tuteja, was injured when a petrol bomb was hurled at him by miscreants last night.

Police opened fire in Ankleshwar in south Gujarat following stone throwing while tension also prevailed in Adipur-Gandhidham in Kutch district.

Nearly two dozen makeshift shops of the minorities in Khatri Chowk were looted and set ablaze by a mob agitated over desecration of a temple nearby. The mob also set fire to a couple of mosques.

APR 2 1992

THE HINDU

Stop this judge!

5/11/91 NHRC wants a CBI inquiry 6/5

The National Human Rights Commission have released an 18-page summary of their Report but this is less than satisfactory. Much of it is background and the rest tells little that is not already in the public domain. The Commission should make the full document available as soon as may be convenient because there is great need for the public to know how the National Commission have gone about their task and in particular the steps that in the Commission's view ought to be taken. With respect, it is not for the Commission to worry about what effect their Report will have on the Union government, the Government of Gujarat or indeed on anyone else. Their task does not include speculation on the consequences of their recommendations. The country has come to expect no less. The Commission's duty is to report what they have found and be pitiless in exposing failures, which are glaring. It is in this respect that the recommendation made public of handing over the whole case to the CBI must be viewed.

Two questions arise. The Gujarat government have only allowed the CBI to come into Gujarat in respect of corruption cases; others require permission on a case by case basis. Surely the National Commission knew or ought to have known this; the only other way is for the Gujarat High Court, in appropriate proceedings, to order the CBI to take charge of the investigations. This will take a month of Sundays. The other is the Inquiry under the Commissions of Inquiry Act ordered by the Gujarat government. It should be noted that the inquiry was to be only in respect of the Godhra incident; it was only later that Modi under pressure of criticism reluctantly extended its mandate to include the horrendous aftermath. The terms of reference are unsatisfactory and will inhibit the inquiry. The time given is three months of which one month has already passed and the infrastructure is not quite in place although the sittings seem to have commenced. On a conservative estimate an inquiry of this nature, unless it turns out to be perfunctory is impossible in three months, it will take at least two to three years — is this intended? The judge Mr Justice K G Shah, a retired High Court judge is in poor health and on other grounds seems quite unsuitable. As the Tada judge in the Dhabgarwad case, he tried five Muslims on a charge of burning alive several Hindu neighbours and sentenced them to death by hanging in 1985. A Criminal Appeal 259/64 of 1987 was filed and on 5 October 1990, a full bench of the Supreme Court acquitted all the accused holding that *the findings were not based on appreciation of evidence but on imagination*. One is driven to the conclusion that the choice of the judge, and this was Modi's personal decision and not a recommendation of the Chief Justice of the Gujarat High court, was unfortunate, to use the language of gross understatement.

To revert to the National Commission, they knew of the appointment of Justice Shah when they made their suggestion of an inquiry by the CBI. As both inquiries cannot proceed in parallel, it is reasonable to suppose that the Commission preferred an inquiry by the CBI. Narendra Modi must understand that these matters must not only be done, they must be seen to be done in a manner that inspires public confidence. Without conceding more than he would wish, Modi should bow to the wishes of the National Commission, withdraw his inquiry and allow the CBI in as required by the Commission.

13 2002

THE STATESMAN

SC begins hearing on rights of minority institutions

Times News Network

NEW DELHI: With a view to clear a long-standing confusion over the rights of minority-run institutions and also the meaning of 'minority' under the secular Constitution, an 11-judge bench of the supreme court on Tuesday started hearing a batch of petitions awaiting its indulgence for nine years.

The bench comprises justices B.N. Kirpal, V.N. Khare, S.R. Babu, Syed Shah Mohammed Quadri, Ruma Pal, S.N. Variava, K.G. Balakrishnan, P.V. Reddi, Ashok Bhan and Arijit Passayat.

The long awaited hearing has a chequered past. In October 1993, a five-judge bench referred the matter to a seven-judge bench framing three questions, including "what is the meaning and content of the expression 'minority' in Article 30 of the Constitution?"

It also raised the question relating to determination of the expression 'minority educational institution' and whether under Article 30 the minority educational institutions brooked no interference

from the state or the affiliating university and whether they could admit students belonging to the relevant minority to the extent of 50 per cent of its intake capacity.

However, on March 18, 1994, a seven-judge bench reframed the questions and increased their number from three to seven. Another seven-judge bench on January 7, 1997, again reframed the questions.

The questions that would finally come now before the bench are: What is meant by expression 'religion' in Article 30(1)? Can the followers of a sect or denomination of a particular religion claim protection under Article 30(1) on the basis that they constitute a minority in the state even though the followers of that religion are in majority in another state?

Can the members of religious or linguistic groups of 'b' state claim right to education in an institution set up the minority group in 'a' state?

Whether members of that minority residing in 'a' state alone will be treated as members of the minority vis-a-vis such institution? Would an institution be regarded as a minority educational institution because it was established by a person(s) belonging to a religious or linguistic minority or it is being administered by a person(s) belonging to a religious or linguistic minority?

Whether the minority's 'right to establish and administer educational institutions of their choice' will include procedure and methods of admission and selection of students?

Details of an inaction plan

Another pamphlet that is circulating is seemingly signed by a member of the minority community and promotes abuse of Hindu women, among other things, a sure way to make young Hindu men see red. Another despicable strategy of the perpetrators of the violence is the use of psychological terrorism. An old Muslim man was shown the head of his beheaded son on a tray before he himself was brutally slain. Another woman surrounded by a mob was made to witness the following scene: her son who had climbed up a tree to escape the mob was brought down, his fingers cut off, and the rest of his body similarly dismembered, before the woman herself was killed.

What we would like to see:

One, a special court of enquiry on the lines of a war crimes tribunal by a sitting judge of the Supreme Court. This court of enquiry should, within a time bound period, investigate the crimes against humanity committed on the minorities and should have the power to punish... Two, a special committee to be instituted to investigate the negative and dysfunctional role of the police, the other arms of the executive and the media. Three, NHRC should ask the police commissioner for the video clippings from the local television channels and also for details of the combing operations, and break up of persons arrested and/or under preventive detention. The video channels also would expose the role of local councillors including the mayor, and the ring leaders of the arson and loot who were either from the ruling party or closely associated to it. Four, prevent the misuse of POTO and selective use of other legal sections. Five, immediately extend relief and implement rehabilitation measures to all affected so that people can start leading regular, normal lives to the extent possible under the circumstances. No amount of talk of healing can take place without this basic restoration of *roti, kapda* and *makaan*.

Post-Godhra events at

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March 2002

Roshannagar-Ashapuri, Navayard, Vadodara... The following is the preliminary report of the fact-finding committee set up by PUCL and Vadodara Shanti Abhiyan, Vadodara...

Though our work is yet to be completed, we deemed it important to submit the fol-



To safety

lowing in order to provide a broad overview of the post-Godhra situation, especially since tension still prevails in the state. Our enquiry was limited to the Roshannagar-Ashapuri as well as Navayard Cabin D areas and is based on detailed interviews with the residents of these areas. Roshannagar is mostly a settlement of Uttar Pradesh migrant labourers, some of whom ply petty businesses as well. Ashapuri is a Dalit *bustee*, around a quarter of them being Christian. Navayard Cabin D area has a majority of Muslims, most of them employed by the Western Railways. The whole area is populated by the lower and lower-middle classes and has poor standards of education.

Detailed outline of events of February 27, 2002: first evening meeting of 86 Village

Samiti at Amarnagar; anxiety among residents of Roshannagar. second evening meeting of 86 Village Samiti... general consternation ... among residents of Roshannagar, especially since little groups of 10-20 trickled back from Amarnagar; a small mob, mostly locals, gathers and pelt stones; loudspeakers used by the *madrasah* to warn of impending attack, and urge women and children to secure themselves and men to group on terraces; ... police complaint lodged against the use of loudspeakers; police arrive in 4 jeeps with around 4-5 policemen in each, apart from a police van, and are led to Maulana Mohammed Yusuf by Leelaben; *madrasah* searched, books torn and thrown in the gutter; loudspeakers confiscated; 21 arrests, *maulana* included, are made; arrested men loaded into the empty police van and taken to Fatehgunj police station; police torture in lock-up. Thursday's arrestees taken to Circuit House, and then to Central Jail without disembarking from the police van; lodged in Central Jail till 12:00 pm, March 5, subsequently released on bail.

At Roshannagar-Ashapuri: around 9:30 in the morning 2 armed mobs (total strength of about 1,000), and accompanied by police, surrounded the right flank of Roshannagar; houses, shops, *larris*, tempo vans... motorbikes burnt/ damaged and chemicals spilled; women and children fled to Ramwadi and Kalyannagar;... shops and houses looted.

At Navayard Cabin D Area: about 1.30 pm mob arrives in 3 luxury buses; people from local neighbourhood also join in, so much that a mob of 2,000 is collected in the open space next to police constable Abdul Majid Malik's house... The well-armed mob tries to move towards Roshannagar...; hearing the noise, men, about 25 in strength, rush out from the mosque; 4 Police jeeps present at the scene, ... police fire at the Muslim group.

TO BE CONCLUDED

NHRC indicts Modi govt, wants CBI probe

Times News Network

NEW DELHI: The National Human Rights Commission on Monday said it did not trust the explanation by Gujarat chief Minister Narendra Modi on why the violence had occurred in his state and why it had continued for so long. The NHRC also said it did not trust the Modi government's ability to prosecute those guilty of heinous crimes.

In its "preliminary comments" on the Gujarat government's 'comprehensive' action taken report, the NHRC said it had noted widespread allegations that FIRs had been "poorly or wrongly" recorded and that criminal investigations were being "influenced" by extraneous considerations or players.

"The commission is of the view that the integrity of the process has to be restored. It, therefore, recommends the entrusting of certain critical cases to the CBI. These include the cases relating to the Godhra incident, which is at present being investigated by the government railway police, the Chamanpura (Gulbarga society) incident, the Naroda-Patiya incident, the Best Bakery case in Vadodara and the Sardarpura case in Mehsana district," the NHRC said.

The commission said that special courts should try these cases on a day-to-day basis,

and that the judges should be selected by the chief justice of the high court. It also said special prosecutors should be appointed as and when needed and that policemen, bureaucrats and politicians who facilitated the violence through acts of omission should be punished.

The NHRC said, "Action should be initiated to identify and proceed against those who have failed to act appropriately to control the violence in its incipient stages."

In its preliminary comments, the National Human Rights Commission has said it does not trust the Modi government's ability to prosecute the guilty

Material collected by NGOs such as Citizen's Initiative, PUCL and others should also be used.

The official explanation of "intelligence failure" leading to the Godhra incident and the subsequent genocidal attacks on Muslims in the state was seen by the NHRC as an excuse aimed at hiding the fact that the administration had failed to protect the life, liberty, equality and dignity of the people. "Unless rebutted by the state government, the adverse inference arising



Gujarat chief minister Narendra Modi

against it will render it accountable. The burden is, therefore, now on the state government to rebut this presumption," the commission said.

The NHRC also found fault with the state government calling the Godhra incident "premeditated" without "clarifying as to who precisely was responsible for this incident".

The commission noted that Mr. Modi's claim of containing violence within the first 72 hours was "naive". "Violence continues in Gujarat as of the time of writing these proceedings," the NHRC said. It also noted that the chief minister's decision to change his earlier decision on differing compensation came only after he had received a letter "on behalf of the kar sevaks" saying that they would welcome the financial help of Rs 1 lakh instead of Rs 2 lakhs.

The NHRC said it found it strange that despite the state government reporting "violence in the well-to-do localities of Ahmedabad" it "does not identify who these persons were. There is a need for greater transparency and integrity to investigate the instances of death and destruction..." the commission noted.

For immediate rehabilitation, the commission has recommended that destroyed places of worship be repaired expeditiously, and adequate compensation be provided to those who have suffered.

Burning down their present and future

Hummer Feb 11

In some areas, the victims are still scared to venture out to lodge their complaints. Where the police were actively or passively involved in the violence, people are afraid to return to those very people to lodge their complaints...The bias in the police arrests also needs to be highlighted. While Muslims are arrested under several and manifold sections, Hindus are arrested under innocuous sections, such as violating curfew timings. In order to show that Hindus are also arrested in large numbers, the police have resorted to arresting innocent and poor Hindus. In Indira Nagar, Makarpura, on March 17, migrant workers...were dragged away from their homes by the police, whereas those Hindus who were part of mobs on the rampage have yet to be arrested. In contrast to Hindus arrested the next day who were charged only with section 188, Muslims were charged under sections 137, 143, 144, 153, and 188. In addition, we fear POTO will be misused as in all over Gujarat as of date 62 Muslims in connection with the Godhra carnage have been arrested, but none of the 800 arrested for the rest of the violence which has left over 600 dead have been arrested under POTO.

The local electronic media has been used in the most despicable manner by local political leaders. The intentions of the following leaders belonging to the ruling party and its affiliates becomes very clear if one looks at their speeches on local TV channels (namely J-TV, Deep and VNM). The speeches of the following leaders were specially provocative and aimed to incite the crowd: Ajay Dave, Nalin Bhatt, Deepak Kharchikar, Neeraj Jain, Bhartiben Vyas (mayor of Baroda), Jitendra Sukhadia, and others... The mayor of Baroda convened a "shanti samiti" meeting on March 18 that was attended by the police commissioner and the collector and leading political figures... She made appropriate pacifist remarks in this meeting and then on the same day she made inflammatory remarks against the minority community in the VMC council.

Even the local Gujarati print media, especially *Sandesh* and the *Gujarat Samachar*, has shown itself

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March, 2002

incapable of playing a...responsible role... *Sandesh* for example carried the following headline on February 28: "About 10 young Hindu girls were pulled out of the railway carriage by a group of religious fanatics" — what the news piece actually reports is that this was a rumour...This clearly shows that all that the newspaper was interested in was presenting something sensational. Going through the newspapers one will find



Hell hole

plenty of instances of irresponsible, unverified reports. We would also like to take issue with the national electronic media which dropped the "Gujarat issue" as soon as something more sensational came along. The tragic death of Natasha Singh in Delhi has left the nation wondering about the current situation in Gujarat, and grappling in the dark for further information.

...The strategies that have been put into effect by the anti-social elements during these riots are as alarming as the violence that they have given rise to. Many attacks were pre-planned — for example, in Kishanwadi, the women told us that weeks before the attack people were moving around to make a list of all the Muslim residents and establishments in the area. In Gotri village, they are reported to have been moving around with electoral rolls to identify Muslims...Attacks were also targeted

2/8

specifically at Muslims where the shop was owned by a Hindu but rented by a Muslim, it was looted, its materials brought out and set on fire, leaving the shop intact. However, when a shop/ house was owned and used by a Muslim, they were simply set on fire. All over the city, one finds among rows of shops only a single one burnt/looted because it belonged to a Muslim.

...The problem continues to simmer under the seemingly calm surface. Bajrang Dal and RSS activists continue to hold meetings in various parts of the city where they are reported to be recruiting people... and training them in the use of arms. They have also indulged in rumour mongering where people were warned of a "Muslim retaliation", or of approaching Muslim mobs; in some cases, Muslims who were returning to retrieve their belongings were dubbed as an advancing mob thirsty for revenge. The other aspect is continuous scare mongering every night by Hindu extremist militant elements with a situation that not only Muslims but many Hindus in Hindu dominant areas have not slept normally for more than 3 weeks now.

...The use of pamphlets to incite people — these pamphlets have carried a variety of vicious messages... An obituary of one of those killed in the Godhra massacre makes an attempt to make a martyr of him. More dangerous, however, is the use of pamphlets to instigate people to rape Muslim women, use biological warfare against newborns of all the minority communities, etc. In another pamphlet, they are encouraging people to boycott Muslims in all possible ways — not employ them nor work for them; not buy from them or sell to them, boycott movies in which Muslim actors are working etc. One cannot simply dismiss these as an isolated event which does not actually influence people because in Baroda since the past 3 days, one has come across incidents in vegetable markets where vendors refused to sell to Muslims who had come to buy vegetables, or to allow Muslim vendors to conduct their business.

Pakistan has little regard for human rights, says report

By Muhammad Najib

ISLAMABAD: Pakistan's rights body has said the human and political rights situation in the country has deteriorated with the military government showing little regard for democratic freedoms.

The Human Rights Commission of Pakistan (HRCP), in its annual report, said human rights were being militarised and defence officers were being inducted into anti-terrorism courts, which was against the judiciary's independence.

It claimed that the government of President Pervez Musharraf had failed to destroy the "structures created by former military ruler Zia ul-Haq to promote extremism."

"There had been no comprehensive measure to root out extremism. It cannot be removed by administrative moves," said the report. The spiral of sectarian killings illustrated the state of law and order in the country with the ban imposed on two sectarian groups coming quite obviously as a cosmetic gesture, it argued.

The Pakistani rights group said reported cases of serious crimes in 2001 in the categories of deaths in encounters, explosions and tribal conflicts showed a decline over the previous year while the graph of sectarian killings went up.

"The drive of de-weaponisation was conducted with improved determination but the haul of illicit arms was believed to be low as compared to private hoards of weapons," said the report, launched here on Wednesday by commission chairman Afrasiab Khattak.

Leading human rights activist

and HRCP's former chairperson Asma Jehangir said political rights have deteriorated in the country. "There are certain parties that have always been blessed by the military government," Jehangir told IANS.

"Referendum can't replace elections," she said in her comments on reports that Gen. Musharraf might hold a referendum to continue as president. "We hope that this notorious process is not repeated."

The HRCP report said that during the 30 months of military rule since Gen. Musharraf came to power, political leaders and activists faced arrests as a means to prevent them from organising or addressing public meetings.

It said rights of women did not seem to be protected; persecution of minorities continued; and the government's sincerity was weak.

Honour killings appeared to be spreading to areas where they had not previously been known and the number of such killings had increased with reports suggesting that those responsible for them frequently escaped punishment, according to the HRCP.

It claimed that hundreds of Pakistanis were languishing in jails in Afghanistan, following the collapse of the Taliban regime.

The report said that HRCP activists had contacted the interim Afghan government and the U.N. for prisoners to be treated humanely and in accordance with the law.

"Most of them (detainees) are suffering from malnutrition and weather problems," said the report, while highlighting the plight of supporters of the former Taliban regime. (—Indo-Asian News Service)

The power of contempt

By Kuldip Nayar

*Human rights activists should not
run down institutions because
they do not conform to their thinking*

40-10
30/3

THE RECENT conviction of Arundhati Roy throws up several questions. What is contempt of court? Should human rights activists run down institutions which are pillars of democracy? Should judges sit in judgment over contempt of court cases? There are many other issues involved in the incident. Without going into any of these questions, it is possible to formulate certain general principles. There is no doubt that the honest and unsolicited help human rights activists render those who are not even aware of their rights is a ray of hope in an otherwise hopelessly unjust and unequal society like ours. But, human rights activists should not run down the institutions because they do not conform to their thinking or fail to come up to the standard of virtue they believe they have come to represent. For, that may evoke doubts about the spirit of dissent and defiance they are trying to build.

It would have been better perhaps if Ms. Roy and some other human rights activists had been more circumspect in their remarks and behaviour. The Supreme Court, good or bad, is an institution. Running it down does not pay in the long run because it is the viability of institutions that differentiates democracy from dictatorship. I personally think the judges should have let her off after expressing their displeasure. They could have said that the court was not in competition with the distinguished writer to make a point or join issue on what constituted the contempt. The

observation of the Chief Justice, S.P. Bharucha, when he was on the Bench during the earlier hearing of the contempt case, was that the court's shoulders were broad enough to shrug off her comments.

I feel sad because the activists looked like indulging in populism when they shouted slogans and offered flowers to Ms. Roy after she had served the one-day sentence. Her own statement that she was not

repentant sounded as if she was speaking from the rostrum of a political party. Her

remark that people should judge the quality of judgment is a good slogan. But are the faults in the verdicts of the Supreme Court to be redressed by a referendum?

The press is unhappy with the contempt laws. It is defying them and fighting a battle in its own way. But it does not want to throw the baby with the bathtub. Institutions are the strength of a democratic system. The press wants better, cleaner and braver judges. What it does not indulge in is the denigration of the Judiciary because by doing so the press may damage democracy itself.

But there is another side to the question. What constitutes contempt? A British tabloid once published an inverted photo of two judges of the Appeal Court in England with the caption: Old fools have done it again. There was no contempt action nor any outcry from the bar. One of the judges, however, said in explanation that they were old was a fact and whether they were fools or not was a matter of opinion. This incident is in sharp contrast to the excessive sensitivity judges in India have developed. They have become too protocol-minded. They want beacon lights on their vehicles. In one State, the demand is for bigger cars.

There are many instances where judges have taken umbrage to ever a light-hearted remark. Contempt proceedings have been sometimes initiated to satisfy a judge's ego. What it all boils down to is self-aggrandisement, a sense of power. This defeats the very purpose of contempt. Obstructing the administration of justice is certainly contempt but

questioning judicial activism is not. Members of Parliament have often complained from several platforms that the Judiciary is occupying the Executive's territory. The principle behind the contempt law is that the Judiciary is an institution essential for maintenance of the rule of law. Any act which undermines confidence in the Judiciary will subvert the rule of law itself.

My purpose is not to cast aspersions on judges or courts. People hurt themselves when they hurl stones at

the temple of justice. To hurt the courts is to hurt society. Human rights activists should realise that the denigration of judges can only lead to the lessening of an institution, which provides strength to the democratic system. Judges cannot defend themselves against the abuse hurled at them. But it does not mean they should object to even peccadilloes. The dignity of law cannot be pulled down by slights which can easily be ignored. The more judges join issue on such things, the more they will involve themselves in spectacles which are bound to be messy.

Non-governmental organisations (NGOs) are doing most of the rehabilitation work in Gujarat. That 99 per cent of them are Hindus sustains hope in the otherwise sombre, saffronised State. The State Government, bureaucratic in approach and tainted in thinking, is only putting obstacles in the way of the NGOs. There is not enough relief and rehabilitation from official quarters. The complaint of the riot victims is that they, the Muslims, are getting Rs. 1 lakh each as compensation while the Godhra victims, the Hindus, are given Rs. 2 lakh each.

Everyone is curious to know why the Prime Minister, Atal Behari Vaj-

payee, did not visit the State after the riots. He did say that what happened in Gujarat was a shame but he should have said sorry to the Muslims. The liberal side of Mr. Vajpayee is less and less visible as the days go by. Is it because of the internal struggle within the BJP or is it because of pressure from the RSS?

People of all religions look up to him for gestures which are above party interests. He is their Prime Minister, not that of the saffronised crowd. People of villages around Nagasr in Chattisgarh's Bastar district, about whose plight I have written earlier, continue to suffer because of the Government's determination to acquire their land forcibly to build a steel plant.

Houses have been destroyed and the tribals have been beaten up for not giving consent to the acquisition of their lands. A People's Union for Civil Liberties (PUCL) branch of that area said: people including women and old men were subjected to a brutal lathicharge in which scores of women were injured.

Hundreds of villagers were taken into custody. When contacted, the Chief Minister, Ajit Jogi, said these were preventive arrests.

Following reports that the police and the State administration in Bhachau town in Kutch (Gujarat) had let loose a reign of terror on the poor affected by the earthquake, the PUCL's State unit sent a fact-finding team to the area. The communities affected by the police action are mainly Kolis, Khawas and Dalits.

In a statement to the PUCL team, women from the Dungarpura settlement said: "All our houses were destroyed in the earthquake and we had built makeshift houses. The police surrounded us immediately. They told us their superiors had ordered the demolition and that they had orders to shoot if anybody resisted. We have been living in tents for one year. We don't want to leave this place. We have made this place habitable. But the police did not listen. They even beat up a one-year-old child."

THE HINDU
30 MAR 2002

Those who unkeep law and order

Human Rights

The distinguishing characteristic of these riots which merit the label of an ethnic carnage is the widespread appropriation and misuse of Hindu religious symbols and figures. These include the following: shouting "Jai Shri Ram" as a battle cry by marauding mobs and politicians of the ruling party; forcing Muslims to utter the name of Ram...and in many cases accompanied by the pulling of their beards; projecting the Godhra dead as martyrs to the Hindu extremist cause; organizing frenetic chanting and *bhajans* in the name of Ram, for example on March 15 in Baroda; mass singing of *Hanuman Chalisa* organized by the very elements involved in looting and arson (for instance even now, in the Tarsali area this is done by Bajrang Dal elements every evening — those very elements which played a major role in setting to waste 185 houses in Noor Park, Tarsali on February 28).

...We would like to highlight the failure of the police in performing their duty. As has been widely reported in the print and electronic media, the police did not respond to numerous and repeated phone calls by people who were seeking their protection and help. For example, in Indira Nagar of Makarpura, after the Bajrang Dal people had vandalized a mosque, the residents made around 100 phone calls to the police. However, the police showed up only after four hours only to say that they (the people) should make their own arrangements for security...Often incidents took place near police stations and temporary police *chowkies*. Police and state administration had not taken action in spite of being given details well in advance...of sensitive areas and persons...

Other such examples of post-March 15 incidents where police were repeatedly given advance notice by us are: Panvad and Kawant of Baroda district; Borsali Apartment in Ajwa Road, and Bahaar colony in Baroda, Rain Basera in Machhipith, Wadi, Nawapura, Patel estate at Pratapnagar, Sardar Estate...On March 15, in front of the Pani Gate Nawapura Naka Police chowki, three boys burnt a house belonging to

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March, 2002

the minority community while six policemen stood watching. A shop of a Muslim in full view of the Panigate police station was burnt. Similarly, in front of the Mandvi police control room, one shop was burnt without any police action and on Shastri Baug Road, very close to the police point, Syed Studio was burnt...Even worse, there were many instances of the



Securing themselves

police taking active part in the violence — in the looting, arson and in the killings. In Navayard (Roshan Nagar and Ashanagar) kerosene was seen in a police vehicle during the riot according to Muslim eye witnesses...

When 32 persons of the minority community were returning to fetch their belongings accompanied by two police vehicles... they were attacked by a reported mob of at least 2,000 in the Makarpura area of Baroda. Two persons of the minority community died on the spot, four are in critical condition in the intensive care unit in the Medical College Hospital and 18 others were injured.

...Over and above this, we would like to point out the atrocities on women committed by the police during the

past three weeks. Not only were the women subject to verbal abuse, they were also subjected to physical and sexual abuse. In Bahaar colony of Ajwa Road, women went out to request the police to set up a police point as tension had been increasing in the face of violence. The police refused to listen to the women and in fact, *laathi* charged to force them into their homes. At Rain Basera, Machchipith, under Karelipath police station, several women were assaulted by the police during "combing operations". Four policemen entered the *bustee* at around 3 pm on March 16, 2002 and started beating them indiscriminately — Sairaben Shaikh, Faridabanu Shaikh, Hamidabibi Pathan all age between 30 and 45 were among those who were beaten so badly that their wounds are still visible. Faridabibi was hit on her chest by a *laathi*, and Hamidabibi in her pubic region.

In Bahaar colony, women were pulled out of their homes by dragging them by their breasts. Even 18 year old girls were not spared — they were threatened with swords and sticks by the police. Rukiabibi, a 70 year old woman in Kasamala Kabristan, who went out to prevent the police from taking away her young son, was hit by the *laathi* so hard that her head split open.

...The problems of the affected population did not end with the halt in the active incidents of violence. These continued in various hidden forms. Many people have fled the areas in which they were living because they no longer feel safe there. However, the FIRs have to be lodged in the area of their permanent residence.

Those who have only just managed to save their lives fear to go back to these areas to lodge their FIRs. Also, there is no guarantee that their FIR will be registered. For example, in Bhutadi Zhampa and Old Padra Road, police refused point blank to lodge FIRs of affected Muslims. When they did admit their complaints, there was an under valuation of the property losses — this happened at the Old Padra Road police station and Indiranagar police stations for instance.

TO BE CONCLUDED

Gujarat submits report to NHRC

By Our Legal Correspondent

NEW DELHI, MARCH 27. Stung by the indictment by the National Human Rights Commission of its earlier perfunctory report, the Gujarat Government today submitted a comprehensive report to the Commission listing the steps it has taken to restore normality in the riot-hit areas.

Commission sources told *The Hindu* that the Gujarat Home Secretary had sent a report in three volumes running to over 400 pages, including annexures of 265 pages dealing with every aspect of the incidents.

Taking suo motu action on the communal violence in Gujarat after the Godhra train carnage, the Commission had on March 1 directed the State Chief Secretary to send a report on the steps taken by the Government.

While sending a preliminary report, the State Government had sought further time. Not satisfied with the preliminary report, the Commission gave a further direction to the Government to send a comprehensive report within five days.

The State Home Secretary sent a report indicating how the situation was tackled, how the interests of minorities were protected and the measures taken for restoring normality.

The full commission is expected to consider the report in the next few days and decide the course of action, the sources added.

PIL against NHRC probe

By Our Special Correspondent

AHMEDABAD, MARCH 27. A public interest litigation petition challenging the jurisdiction of the

National Human Rights Commission in probing the communal violence in the State was admitted by the Gujarat High Court here today.

A Division Bench comprising the Chief Justice, D.S. Sinha, and Justice B.C. Patel, issued notices to the NHRC, its chairman, and the Union and the State Governments returnable by April 8.

The PIL was filed by an Ahmedabad-based organisation, Karuna Charitable Trust, under Section 36(1) of the Protection of Human Rights Act, which prohibits a commission to probe any matter being looked into by another judicial commission.

The petitioner sought the direction of the High Court that since the State Government had already constituted the K.G. Shah judicial commission to probe all aspects of the Godhra train tragedy and the violence that followed, the NHRC or its chairman, Justice J. S. Verma, may be restrained from probing the violence. It also sought deletion and withdrawal of all the documents, reports, photographs and other materials collected by the NHRC.

The petitioner argued that it was improper and unwarranted at this stage for the NHRC chairman to publicly criticise the State Government for its alleged failure to control violence even before seeking its report. While the NHRC was within its rights to visit Gujarat to study the situation, it was unfair to accuse the State Government before finalising its report.

MLA flays NHRC

Meanwhile, a BJP member of the State Assembly, Vijay Patel, a lawyer, said the indictment of the State Government

by the NHRC chairman tantamounted to contempt of the K. G. Shah judicial commission.

In a statement on the floor of the Assembly, Mr. Patel said the NHRC chairman had transgressed his limits by making such statements against the Government. "It is for the Government to decide its priority, whether to take steps to restore peace or engage its time to prepare reports for the NHRC".

Mr. Patel said he was not aware as to who invited the NHRC to visit the State. "May be, he (Justice Verma) had come on his own.

PM's call to scientists

By Our Special Correspondent

NEW DELHI, MARCH 27. The Prime Minister, A.B. Vajpayee, today expressed disappointment with the private industry for not making adequate investments on research and development and said the Government would provide all help for any attempt to forge new partnerships between the industry and public scientific institutions, involving sharing of both physical and intellectual capabilities.

"Whereas the Government has steadily stepped up its support to R&D, I am disappointed that private industry has not increased its share commensurate with its increased role in the national economy. It is important that we forge new public-private partnerships", he said, presiding over the annual general body meeting of the Council for Scientific and Industrial Research (CSIR).

He asked the scientific community to work harder. He said the Budget allocations for the three departments under the Science and Technology had got an unprecedented hike of 35 per cent this year.

NHRC meets to discuss PIL against intervention in Gujarat

By J. Venkatesan

NEW DELHI, MARCH 28. The National Human Rights Commission, which met here today, could not consider the "comprehensive" report submitted by the Gujarat Government on the communal violence in the State following the Godhra train carnage.

Commission sources told *The Hindu* that 19 pages were found missing in the report sent by the State Government on Wednesday and after it was pointed out, a copy of the complete report was sent today.

Though some preliminary discussions took place, as the report is in three volumes, the Commission is likely to consider it fully only on April 1.

Meanwhile, the Commission discussed the strategy to be adopted in the public interest litigation petition filed in the Gujarat High Court challenging the NHRC's jurisdiction to intervene in the enquiry when the

State Government had already set up a judicial commission to probe the incidents.

It might be recalled that a similar situation arose in July last when the Tamil Nadu Government raised preliminary objection questioning the jurisdiction of the NHRC when it served notice regarding alleged violation of human rights in the arrest of the DMK president and former Chief Minister, M. Karunanidhi, and two Union Ministers, Murasoli Maran and T.R. Baalu.

The Tamil Nadu Government took the stand that as it had set up an enquiry commission headed by a retired High Court judge, the NHRC had no right to intervene in the matter.

The Commission passed a detailed order rejecting the State Government's plea for deferring the proceedings for three to four months till the State enquiry commission furnished its report.

On the contrary, the NHRC

said that it would be appropriate for the Justice Raman Commission of enquiry, appointed by the State Government, to defer its probe till the NHRC completed its proceedings.

The NHRC had made it clear that its jurisdiction was excluded only when the subject matter of the enquiry was pending before the "State appointed commission" before the NHRC took cognisance of the same.

Therefore, the NHRC is likely to submit to the Gujarat High Court that it had taken suo motu cognisance of the incidents and had ordered notice to the Gujarat Government prior to the setting up of an enquiry commission and that its jurisdiction could not be ousted.

Sources in the NHRC regretted that its proposal sent to the Union Government two years ago suggesting certain amendments to the Human Rights Protection Act to confer more "teeth" to the Commission is yet to be approved.

Home fires extinguished

5-13
27/3

After Godhra, the situation in Baroda became tense. There was one death on the afternoon of February 27 in the presence of police in the railway station. This was a signal to Hindu extremist forces to begin the free for all mayhem. During the day and the night of February 28, tension and violence escalated in the city. The Gujarat *bandh*, supported by the state government, gave a clear licence to anti-social elements to come out on the streets.

...Reports started coming from various Muslim localities of stoning, threatening, stabbing, and sword-wielding by intimidating Hindu extremist elements. Swords were a prominent tool used by Hindu middle class and lumpen gangs to intimidate the Muslim minority. Mobs organized, attacked Muslim localities, destroyed places of worship, all the time shouting war cries of "Jai Shri Ram". Throughout the night of February 28, Muslims were terrorized. Many hid in their homes, sheltered by Hindu, Sindhi neighbours.

...Through the night of February 28 and the day of March 1...first houses were looted, and then houses were burnt. Use of gas cylinders, petrol and kerosene bombs to blow up houses and places of worship (Noor Park and Kisanwadi) and burn them thereafter was a distinct characteristic of destruction. Even goats belonging to Muslims in the Gotri area of the city had acid poured on them and thereafter killed. By March 1, people started leaving their locality and moving into *jamaat khaanas* or with relatives in "safer" areas. Mobs went back repeatedly to the abandoned houses to loot and wreak further damage (for instance in Atladara, Noor Park, Kisanwadi). Shops have been also set on fire by drilling holes and pouring inflammable liquid and then setting them on fire ... The Islamic Study Center at Ajwa road was destroyed, ... and Mangal Bazar, a bustling shopping area, was set on fire. *The Times of India* office, Baroda was stormed by mobs demanding more pro-Hindu news. The Tulsiwadi slums in Karelibaug were also attacked by mobs.

...Reports of selective destruction of Muslim property started pouring in. People

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March, 2002

were seen moving around with electoral lists; in Kisanwadi, women reported that one local young man had made lists of house numbers and location of minority houses. Visits to sites showed where *laaris* (pushcarts) were parked in Akota. Two Muslim *laaris* were burnt while the Hindu one in the middle was intact. Such examples can be extended to residential areas too. In an area of majority Muslim homes, Hindu houses are safe ... Another "novel" phenomena this time was to instal idols of Hindu gods immediately on the destroyed Muslim property.



Living the nightmare

...After the March 15 *shila daan*, a second round of violence erupted and followed the same pattern. Muslim establishments not damaged in the first round were targeted in the second round. The objective was to finish those Muslim houses and properties untouched by the first wave. Today there is practically no Muslim property in non-Muslim areas undamaged by the loot and arson.

...After the towns of Ahmedabad and Baroda on March 1 and 2, rural areas were targeted by March 3 and 4. Tribal villages which have never before been affected by communal disturbances, saw large scale and extremely violent and inhuman violence. Incidents in Baroda district began from Tejgadh, Pan-

wad, Kawant. The pattern here was that first people in far flung villages were terrorized. The terrorist activities then moved on to smaller towns like Panwad, and then came to the *taluka* town. First, terror in people of the minority community was sought to be created by stoning, spreading rumours, and killing their animals. Then mob attacks forced people to flee. This was followed by the looting of houses, including carrying away of their animals like goats (or killing them by driving vehicles over them), finally burning, smashing, and breaking whatever was left in or around the houses.

... In this communal violence, the geographical pattern as well as the nature of violence was also different. In contrast to the communal riots of 1969 and 1992, this time new areas are affected, and not just usual trouble spots. Areas where people have co-existed peacefully for generations have been targets of violence this time, eg. Pira Mita, Fatehganj. Elected representatives and persons associated with the ruling party have played a key role in spreading violence to peaceful areas. Corporators and councillors have challenged colleagues in relatively unaffected areas and implied a lack of *mardangi* because no destruction has been seen in these areas. Similar patterns were reported from other parts of Gujarat when leaders in the quieter districts were sent bangles to denote lack of manliness. The idea seems to make all places unsafe for Muslims. And spread a scare among Hindus that if Muslims migrate to nearby places, the Hindu areas automatically become unsafe. (Some "safe" areas like Tandalja, where Muslims migrated to after the 1992 riots have been sought to be projected as a "mini-Pakistan" even by "responsible" figures in society. In Fatehganj eye witness accounts (Hindu families living opposite the mosque) reveal that the *chadar* in the mosque in Sadar Bazar caught fire. Both communities helped to douse out the fire. Stoning started in the evening. The police arrived promptly, and opened fire in which one was killed.

TO BE CONCLUDED

THE TIMES OF INDIA

27 MAR 2002

Error of commission!

Human Rights NHRC should target Modi, not cops *5-1-02*

For the National Human Rights Commission to upbraid the Gujarat police for putting politicians above duty is, we are sorry to say, to make a molehill out of a mountain. Police everywhere in India do exactly the same. That doesn't make Gujarat police blameless. But stressing that point serves, even if unwittingly, to obscure the chief culprits, in Gujarat and elsewhere: the politicians. Justice JS Verma, NHRC chief, asks why did the police "wait for "orders from above", and why did they "wait to seek permission". The answer, as any rookie beat constable knows, is that politicians have punitive powers over services and they use it ruthlessly and shamelessly. The use of this power has rendered the police almost entirely unprofessional. The question is, why should an institution of the importance of NHRC deal in old chestnuts when the bloody mess in Gujarat has so many investigation-worthy horrors.

To name a few. There have been reports that the VHP leadership in the state had called the bandh as a cover for a pogrom. "Arrangements" were made the night before, including a period of non-response from the state administration. Some Gujarat ministers were said to have been at the police control room on the first day of the massacres. Since one can safely assume they are not there to direct police operation against rioters, what were they doing? Open discrimination on religious lines while offering aid, threatening Muslim victims to leave relief camps, and — this is as bizarre as it is frightening — declaring camps be closed down because the shelter-seekers are "security risks". This gem came from the civil supplies minister, Bharat Barot, who wants camps in his constituency to be closed down. Barot should have been taken to the cleaners by NHRC. It is no good saying that the Gujarat government's claim that "normalcy" has returned is not tenable. NHRC should ask why Narendra Modi used Poto to arrest only Muslim miscreants of the Godhra killings but not Hindu mobs who killed hundreds everywhere in Gujarat. Modi has a constitutional obligation to enforce law and order, keep discrimination out, protect lives. All evidence shows there is a prima facie case for charging him with failing to uphold human rights. Why then is the commission wasting its time with pawns of politicians whom we call the police? If NHRC cannot, or will not, take on politicians, it may as well admit that its brief will remain unfulfilled. On the other hand, if the commission indicts Modi, and thus puts him and his party backers in a very difficult position, there may be some hope for even this rotten system.

THE STATESMAN

26 MAR 2002

The Telegraph

TUESDAY 26 MARCH 2002 VOL. XX NO. 260

NO RIGHT TO RULE

There is only one conclusion warranted by the comments of the chairman of the National Human Rights Commission, Mr J.S. Verma, on the Gujarat government's handling of the communal riots. The chief minister, Mr Narendra Modi must accept moral responsibility for what happened and for the utter incompetence of his administration in quelling the violence. The inevitable next step to such acceptance should be his resignation. It is inconceivable that a political leader who sat back and watched violence of the most horrible kind unfold and claim the lives of people should be driven by any moral or ethical principles. Yet, it cannot be overlooked even by Mr Modi's supporters — this includes the Union home minister, Mr L.K. Advani — that he holds a high public office and he is responsible for his actions or for the lack of them. The evidence coming out of Gujarat both through official and non-official channels is stacked against Mr Modi. The evidence speaks of indifference and in some cases, even of collusion. Police officers in Gujarat, according to the NHRC, sought to seek permission from Mr Modi before fulfilling their duty under the law. There is nothing to suggest that Mr Modi has taken any kind of action against these police officers who just failed to do their job. The very fact that they petitioned the chief minister to get a free hand to suppress rioting is a comment on the nature of Mr Modi's administration and also of the biases inherent in it.

Violence continues in Gujarat. This goes against Mr Modi's boast that he had created some sort of record by restoring normalcy in 72 hours. No observer has come away with the impression that Ahmedabad and the rest of the state are back to normal. It did not require a great deal of intelligence to infer that the carnage in Godhra would be followed by largescale violence against Muslims in Gujarat. Mr Modi and his government took no steps to pre-empt such an occurrence. Senior police officers in Ahmedabad merely watched as murder and mayhem took their toll on life and property. Mr Verma is entirely justified in saying that "things could have been better and all that happened could have been averted." For an administration, nothing could be more damaging than the observation that it could have stopped the violence but did not. This failure could have grown out of incompetence or out of intention but there is only one price for the failure: the resignation of the chief minister. Responsibility must begin at the top.

The negligence of Mr Modi's government is clear from Mr Verma's statement that no minister or high-ranking official had to date visited the relief camps. Mr Modi has thus displayed indifference not only to violence but also to human suffering and human misery. It is unlikely that the Bharatiya Janata Party-led coalition government in New Delhi will remove Mr Modi, though the continuing violence in Gujarat makes it a textbook case for the imposition of president's rule. Mr Modi may continue in office and might even reap dividends of the Hindu backlash, but he cannot escape ignominy. History will remember him not as a chief minister but in the same terms that the authors of "the final solution" are remembered.

THE TELEGRAPH

26 MAR 2002

To take the first head count

Human Rights
T-11

26/3

The state of Gujarat has come under the most severe attack by communal hooligans resulting in an unprecedented damage and destruction of life and property... The nightmarish atmosphere of terror and violence, perpetrated by the ruling party and the government, continues to threaten human rights, civil liberties, constitutional guarantee of individual freedom and democratic privileges.

Normal life has come to a standstill. In fact life has been hit so hard that we are afraid it will never come back to normal. The livelihoods of poor daily wage earners, and especially Muslim poor wage earners, have been totally dislocated as their means of daily earning like hand carts, shops, houses have been burnt, looted or destroyed. Establishments of the relatively better off have remained closed due to the *bandhs*, curfew or the prevailing atmosphere of insecurity. Also closed for the same reasons are schools, colleges, government and private businesses and industrial establishments, banks, state transport bus services, auto rickshaws or taxis, tours travels, etc. that are part of routine life...

The state chief minister's reaction to the people reeling under violence is too casual ... exuding uncalled for bravado about "deft handling" of law and order. He has evaded all sense of responsibility and accountability. We have tried to present an overview of the disaster and doom prevailing in Gujarat. Briefly:

1. Poor and middle class communities, particularly from the Muslim minority, are rendered shelter-less, as their houses are either looted, destroyed or burnt.

2. Some of the minority men, women and children

Extracts from a report on the Gujarat carnage prepared by the People's Union for Civil Liberties, March, 2002

have been killed by stabbing, private or police firing, or by burning them alive. Their families have fled their homes and are either in some relief camp, or at their relatives' homes or have left the state.

3. In Vadodara, as in other places of the state, Muslim families have been attacked *en masse*, at night, and looted, beaten...maimed and killed. All of them have fled their



Killing fields

homes to save their lives, with houses of many burnt.

4. Cruel, inhuman and uncivilized attacks continue unabated and a kind of Hindu extremist demoniacal force has been unleashed that is spreading poisonous fiction about Muslims. Propaganda has been on the rise saying that Muslims are a peril for the survival of Hindus. They are advised to awaken, decimate and drive out Muslims from India. Leaflets are being circulated to incite people

against Muslims. Their propaganda is full of venom, hatred and violence. The tragedy is that these pamphlets originate from groups that are allied with the ruling party in Gujarat

5. Over 15 mosques, *dargahs* or other Muslim monuments have been destroyed or damaged in Vadodara city alone. At least a hundred Muslim shops and establishments have been attacked, destroyed, looted and burnt.

6. *Lari gallas*, *paanshops*, restaurants, hotels and the already meagre means of life have been either looted or destroyed. Big shops, small, big industry, home-producing units, are destroyed...

7. About 120 Muslim houses in Kisanwadi, 40 huts in Fagwel Nagar, 185 houses in Noor Park, 28 in Vishalnagar, 12 in Hujarat Paga, 40 in Kapurai, 80 in Adarshnagar in Bhutadi Jhampa, as also Muslims' houses Govindnagar, Vijaynagar, Makarpura, Sardar Estate and Dandia Bazar, Sayajipura etc. have been destroyed.

This list is far from complete and we still are to enumerate loss of life and property in rural area...

The roles of the police and mass media and local TV channels have remained provocative and have succeeded in instigating ...the majority community... against Muslims. The police, who obviously have received encouraging hints from the state government and the ruling party have failed to maintain law and order, and have rather played an anti-national and unconstitutional rôle, becoming instrumental in destroying democracy and harmony among people. India's culture, tradition and heritage is at stake.

TO BE CONCLUDED

People in Gujarat still insecure: Justice Verma

25/3 119-1
By J. Venkatesan

NEW DELHI, MARCH 24. The Chairperson of the National Human Rights Commission, J.S. Verma, today deplored the pathetic conditions in the riot-hit areas of Gujarat and said "people are still insecure" and the fear psychosis continued to prevail.

Giving his impressions of the three-day visit to Gujarat at a press conference, Mr. Justice Verma was critical of the State administration for its failure to anticipate and control things, whether it was the Godhra train tragedy or the incidents that followed it.

Although he declined to say whether there was any collusion between the State administration and the perpetrators of violence in these incidents, Mr. Justice Verma said; "things could have been better and all that happened could have been averted". He further said, "If some unusual things happen, it must be because of certain failure".

He said that while the Godhra carnage was "gruesome", the incidents that followed were "equally gruesome". It was disturbing to learn that the houses of even judges were targeted.

He said though the Gujarat Chief Minister had asserted that normality had been restored within 72 hours during his visit three weeks after the Godhra incident, he found no normality. A "sense of insecurity" prevailed among the people of all religions.

He said he had emphasised to the Gujarat Chief Minister the need for "generating and inspiring confidence" among the people. Describing the poor conditions of the camps, he said these reflected the sorry state of affairs. He regretted that no Minister or high-ranking official had visited the relief camps.

The sight of the burnt rail bogie at Godhra and the accounts narrated by the victims, including women, at the camps and elsewhere in the State had "shocked" him.

He welcomed the calling off of the VHP's proposed 'asthi yatra', and said it could have caused further "inflammation" to the already surcharged atmosphere. He wanted the State Government to take all precautions in view of 'Muharram' and 'Holi' festivals falling next week.

Mr. Justice Verma wanted the State administration to give "top-most priority" to restore normality, peace and harmony and instil a sense of security among the people of all religions and ensure rehabilitation



Human Rights

"the police officers should not ask permission to perform their duty under the law. They must act". Mr. Justice Verma said he had told the officials that there should be a "fair, impartial and thorough" inquiry and "there should be no distinction of victims on the basis of religion".

"Perpetrators of the crimes were all criminals and offenders and must be classified according to the offences committed".

Asked whether the Gujarat Government decided not to use POTO at the instance of the Commission, he said his views on POTO were well known. But he had told the officials that "if it (POTO) is made a law, it should be applied equally and not selectively".

Mr. Justice Verma said the full Commission which was awaiting a comprehensive report from the State Government would meet soon on the issue and decide the future course of action.

of the survivors.

Blaming the officials for their "inaction" and "inefficiency" to prevent such incidents, he said he had reminded them that they need not seek permission to perform duties under the law.

They must act'

Referring to media reports that the top police officers in Gujarat had requested the Chief Minister, Narendra Modi, to give them a free hand, he said,

Gujarat violence must end: PM

SHIMLA, MARCH, MARCH 24. Condemning the Godhra train attack as well as the subsequent communal disturbances in Gujarat, the Prime Minister, Atal Behari Vajpayee, today asserted that violence in the State must end.

"The Gujarat incidents have tarnished the image of the country and violence in the State must stop," Mr. Vajpayee told a rally here, marking the completion of four years of the BJP-HVC Government.

He said the culprits of the Godhra incident had been arrested and would be dealt with firmly. A commission had been appointed to inquire into violent incidents that followed.

Mr. Vajpayee said his Government did not discriminate on the basis of religion and all the people living in the country were treated alike and enjoyed equal rights.

He described the Godhra train attack as "most unfortunate" and subsequent violence by enraged mobs "regrettable".

The Prime Minister said the Government would not allow violence to be perpetrated by anti-social and disruptive elements in Gujarat.

Mr Vajpayee called upon the people to live in peace and harmony, saying, there might be different religions and different methods of worship but "God is one and India is the motherland of all". Without naming Pakistan, he said "our neighbour was also watching the situation there and could not raise its finger because the Government stood firmly to tackle the situation and would solve all problems."

Referring to Ayodhya, Mr. Vajpayee said apprehensions were expressed as to what turn the situation would take in the wake of the Ram Janambhoomi Nyas's 'shila Pooja' programme there. — PTI, UNI

Advani speaks to Modi

Our New Delhi Special Correspondent reports:

The Union Home Minister, L. K. Advani, today spoke to the Gujarat Chief Minister, Narendra Modi, and urged him to ensure that Muharram and Holi were observed peacefully in the State. He suggested that the police be put on maximum alert. Mr. Advani also urged the people of Gujarat to respect the sentiments of all communities and maintain peace and harmony.

Gujarat scene 'shocks' NHRC chairman

New Delhi, March 23 ^{24/3}
man. I am really very disturbed over it," he said.

THE CHAIRMAN of the National Human Rights Commission (NHRC), Justice J S Verma, who returned to Delhi last night from his visit to riot-torn Gujarat, has called for "strong confidence-building measures by the State Government".

The former Chief Justice of India said he was "disturbed and shocked" over what he had seen in the violence-hit areas of Gujarat and spoke of a sense of insecurity among the people there.

Justice Verma, who visited Ahmedabad, Godhra and Vadodara, said, "It will take me two more days to come over what I have seen and heard in various violence-hit areas in Gujarat."

"I cannot even narrate what I have been told by the women victims. It is horrible and inhu-

al it has gathered during the visit and pass an order."

Justice Verma has suggested that an investigation should be undertaken into major incidents such as the Godhra massacre and the Gulburga housing society killings in Ahmedabad.

"The specifics of the matter will be taken in the full commission meeting considering its urgency and importance," he said. "The investigation should be done by a prompt, effective and impartial agency."

Asked if he will recommend a CBI inquiry into the incidents, he said, "I cannot say specifically but we will take a decision only after discussing the issue in the Commission."

"I do not think that the people who have perpetrated the violence have anything to do with religion, whether it was the Godhra carnage or after that.

They all should be treated as criminals and punished uniformly," said Verma, who conveyed the same views to Gujarat Chief Minister Narendra Modi.

"I am happy that the State Government has realised the same and booked them under IPC instead of using Poto against some and other provisions against others," he said.

Modi announced yesterday that people arrested for the Godhra incident will be booked under the provisions of the IPC and not under Poto as decided earlier.

On the matter of compensation to victims, he said, "The compensation is a secondary issue; the basic need is to bring the situation back to normalcy and create a sense of security among the people of the State irrespective of their religion."

Agencies

I injured in police firing, curfew continues

A TEENAGER was injured on Friday night when police fired over 20 rounds in Gomtipur area of Ahmedabad to control violence. The indefinite curfew, which was clamped on four police station areas of Kalupur, Dariapur, Karanj and Shahpur for the third time, remained in force on Saturday, the fourth day, with the tension heightening in Ahmedabad.

Night curfew also remained in force in Danilimda police station area. At least two houses were set on fire by an unruly mob in Gomtipur area late on Friday and police resorted to teargas to disperse the mob in Khanpur area. Reports from Modasa said a large number of houses and shops were set ablaze by another violent mob at Vadgam near Modasa Taluka town of Sabarkantha district on Friday. The Modasa town, which witnessed violence recently, reel under fear psychosis even as night curfew remained in force in the town.

Himmatnagar town in Sabarkantha district also remained under curfew for the third day on Saturday. In Vadodara, curfew continued in six police station areas where three persons were killed on Saturday. Curfew also continued in Visnagar town for the second day today following incidents of stabbing in which three persons were injured on Saturday. Night curfew remained in force in Bharuch and Godhra towns.

PTI, Ahmedabad

NHRC chairman visits carnage site

Godhra, March 22

NATIONAL HUMAN Rights Commission (NHRC) chairman J S Varma, along with senior officers, today visited Godhra railway station to see the ill-fated S6 coach of Sabarmati Express.

The commission held in-camera meetings with Railway officials about the February 27 incident, in which 58 passengers were charred to death. The commission also visited relief camps and spoke to district officials.

Varma later said he would submit his reports after collating information about the carnage and subsequent riots. He stressed the need for communal harmony and joint efforts to restore normalcy as soon as possible. He said it was the Government's responsibility to provide security to citizens.

The NHRC will compile its

own report if the Gujarat Government fails to file a comprehensive report in the next four days, Verma said.

The commission had rejected the Government's report filed in response to the NHRC's notice, as it was "perfunctory". He said there was no time to verify media reports on violence and the NHRC took suo motu notice of the reports about developments immediately after the violence began. The NHRC will collect as much information as it can before deciding on what recommendations should be made to ensure such things do not recur anywhere in the country, Verma said.

Former Prime Minister and president of JD (Secular) HD Devi Gowda will visit Godhra tomorrow. He will inspect the S6 coach of the Sabarmati Express.

PTI

THE HINDUSTAN TIMES

23 MAR 2002

NHRC rejects Gujarat Govt. report

22/3
HO-1

AHMEDABAD, MARCH 21. Observing that a sense of insecurity still prevailed among the people in Gujarat, the National Human Rights Commission (NHRC) today rejected as "perfunctory" the preliminary report of the State Government on the recent violence and demanded a "more comprehensive" document in the next few days.

"The situation in the State is far from normal. There is a sense of insecurity among the people," the NHRC Chairman, Justice J.S. Verma, told a news conference here. Mr. Justice Verma, who is on a three-day visit to the State, said he had told the Chief Minister, Naren-

dra Modi, that the preliminary report was not comprehensive and was done perfunctorily.

"We expect the State Government to file a comprehensive report on the situation in the next few days." He said the Commission would come out with recommendations outlining measures to ensure that such incidents did not recur anywhere in the country.

The four-member Commission is also scheduled to visit Godhra and Baroda. It comprises the secretary-general, P.C. Sen, the special reporter, Chaman Lal, and the personal secretary of the Chairman, Y.S.R. Murza. To a question about the

Human Rights

"late intervention" by the NHRC, he dispelled any doubt on this score, saying, "We act as a facilitator and are not vested with any administrative powers. But the NHRC took a *suo motu* notice of the developments in Gujarat immediately after the incidents of violence began. We had sent a notice to the State Government on the basis of reports in the media. But the preliminary report was not comprehensive, it had lot of gaps and was done perfunctorily."

"We have not come here with any assumption or presumption. We will go back and then

collate the information before deciding on what recommendations need to be made to ensure that such incidents don't recur anywhere — that is my mandate," he said. Although the Commission was still garnering information, its broad perception was that the return of normality, as claimed by the Government, was not "real" but "deceptive". Mr. Justice Verma said that his visit to several relief camps had made him realise that mutual trust between the communities was yet to be re-established.— PTI, UNI

Seven killed in Ahmedabad:
Page 11

THE HINDU

22 MAR 2002

5 killed in Ahmedabad, NHRC pulls up govt

Times News Network

AHMEDABAD: Five people were killed and 19 injured in fresh incidents of violence in the city on Thursday. While two persons were killed in police firing at Kalapur, two others died in a shoot-out between groups and one person was stabbed to death.

Curfew was clamped on Kalapur after an army jawan was shot in the leg when the forces were trying to keep a raging mob under check. In fact, the police were forced to lob tear-gas shells to bring the situation under control. About 50 shops were burnt down in Revdi Bazaar, the main wholesale textile market in the city. Reports of stabbings and stone-throwing also came in from other parts of the city.

There was also an attempt to burn down an insurance company's office, which forced shops to shut down shutters while panic-stricken people ran helter-skelter.

With the countdown to Moharram beginning, rumour-mongers and rioters kept the police on their toes. The police, however, confirmed that there would be no 'tazia' processions on Monday in view of the communally charged atmosphere.

Meanwhile, the National Human Rights Commission (NHRC) on Thursday criticised the Gujarat government's handling of the recent riots and said that there was a general feeling of insecurity in the state.

NHRC chairman and retired chief justice of the supreme court Justice J.S. Verma said, "Society at large is not feeling very secure. That should not be so. Normalcy has not yet been restored. That is the general perception." Addressing a press conference, he said that although a preliminary report had been given by the state government, he had sought more information, which was still to be



A home guard official walks past a series of shops that were set on fire by miscreants at the Revdi Bazaar cloth market in Ahmedabad on Thursday.

provided. However, he declined to say if the state had been given a deadline for the information.

Declining to state whether he was satisfied with the Narendra Modi government's preliminary report, he only said, "We cannot say what the outcome will be, it will take time. After collecting the information and material, we will study it and then come to a decision."

Dismissing allegations that members of the majority commu-

nity had mobbed the NHRC team on Wednesday as it had ignored them and spent much time and attention with the minority community, Justice Verma said, "We have given as much time as was needed. There was an open house in the afternoon (on Wednesday). But every person cannot expect to meet us individually. We consider what people are saying, how many there are and decide accordingly. The dichotomy that you are trying to draw is not our perception. The

dignity of every individual is more important for us."

Justice Verma said he had taken suo motu cognizance of the reports published in the media.

"The commission is keeping a tab on the shaping of events right from the Godhra incident, which was indeed shameful, the chain reaction that followed and the continuous process. But we will form an opinion only after hearing everyone," he said.

INDIA

22 MAR 2002

Human Rights

PENALISING INNOCENCE

10-10 2/3

THE NOTICE ISSUED by the Supreme Court to the Ministry of Home Affairs and the Department of Women and Child Welfare to formulate schemes for infants and children languishing in jails along with their convicted mothers is a welcome initiative. It is a potential long-term investment both in shaping individuals' personal growth and enhancing overall social stability. The over 800 children in the age group of six months to six years, said to be living in jails in different parts of the country according to the Indian Council of Legal Aid (the petitioner), could not have had it worse than to have to start life within prison walls on account of factors completely outside their control. The denial of basic ingredients for a healthy childhood both in terms of a congenial family environment and the consequent deprivation of every other form of meaningful socialisation in the formative years impose avoidable social costs that could potentially result in personality disorders and deviant social behaviour patterns. Similar considerations must have weighed in the commutation of the death sentence of the woman convict in the Rajiv Gandhi assassination case where, the convict was also a mother, raising her daughter.

While reflecting on the prospects for children who are condemned to this type of confinement, it is difficult to overlook the deplorable state of affairs in prisons which are breeding grounds for violence and criminality; what with the nexus between prison officials and hardened criminals inside jails. Generally speaking, the reformatory process that is supposed to characterise jails is hardly in evidence except for elaborate guidelines on promoting harmonious living and civilised conduct among inmates that are

contained in prison manuals. However, the series of attempts in recent times at sensitising prison officials to the ultimate objective of punishment as being essentially reformatory and similar efforts such as psychotherapeutic counselling for detenus, convicts and undertrials are steps in the right direction. The contemplated move to address the needs of children in prisons itself is possibly a sequel to these other measures. Should it materialise into something more concrete, it could demonstrate, more than any similar measure possibly could, to the convicted themselves the reformatory intent underlying punitive laws. Its implications for convicted mothers would be all the more significant considering that they can begin to see a ray of hope for their wards.

Ideally, the course of hearings on the current petition should lead the Supreme Court to take a holistic view on the entire range of issues concerning prison reforms; a subject upon which the National Police Commission had made far-reaching recommendations in its reports way back in the late 1970s. There are still a number of petitions pending in the lower courts in more recent years in the aftermath of the prison riots in West Bengal and Tamil Nadu. Additionally, there is the other aspect concerning the obligations arising out of the 1989 United Nations Convention on the Rights of the Child — incorporating socio-political and cultural and economic rights — which India has subsequently ratified. Significantly, Article 6 of this Convention obliges signatories to take measures for the survival, protection and development of children. It would also be appropriate to refer to Article 15(3) of our Constitution requiring the state to make special provisions for women and children.

THE HINDU

21 MAR 2002

Human Rights
**U.S. violating rights,
says Amnesty** *FD-15
1613*

NEW YORK, MARCH. 15. Amnesty International has accused the United States of violating the human rights of many of the foreigners arrested in the wake of the September 11 terrorists attacks in America.

In a highly critical report, the human rights group said six months after the attacks, a significant number of people detained continue to be deprived of some of their basic rights under the international law and many "appeared" to have been detained arbitrarily. "These detentions have been surrounded by extreme secrecy, which creates the potential for abuse," Amnesty International said. "Our research confirms that basic rights have been violated, including the rights to a humane treatment, to be informed of the reasons for the detention, to have prompt access to a lawyer, to be able to challenge the lawfulness of the detention and to be presumed innocent until proven otherwise."

Amnesty said its report was based on numerous interviews with attorneys, detenus, relatives and visits to two jails.

Amnesty said it was concerned that detenus were shackled when taken to court. In the Metropolitan Detention Center (MDC) in New York they are made to wear full shackles when appearing before immigration judges (during hearings which take place within the facility) — in "direct contravention of international standards" Some Immigration and Naturalisation Service detenus it said had been held for weeks or months pending security "clearance" by the FBI. — PTI

1 6 MAR 2002
FBI

Asylum shock gets rights panel hopping mad

Romita Datta
Kolkata, March 6

BENGAL IS not Tamil Nadu. Mental hospitals here don't keep their inmates in chains or let them roast alive. Only they give their patients electric shocks — without bothering to anaesthetise them.

The National Human Rights Commission (NHRC) is aware of this and has indicted Bengal and five other States for still using Electro Convulsive Therapy (ECT), or shock therapy, on patients in Government asylums.

But what is ECT? The abbreviation sounds innocent enough. But in reality, it means applying low-voltage current to the scalp

— often at great risk to the patient. Medical experts say patients must be anaesthetised before shock therapy to avoid fractures, transient amnesia, memory loss and even death. The NHRC report too insists "such treatment without use of anaesthesia is considered barbaric in all developed countries".

But all three mental asylums in the Bengal — Institute of Psychiatry (Kolkata), Lumbini Park Hospital (Kolkata) and Berhampur Mental Hospital (Murshidabad) — have been caught making reckless use of ECT with no respect for medical guidelines.

The NHRC conducted a survey over quality assurance in mental health after Sarthak, a

Delhi-based voluntary organisation espousing mental patients' rights, filed a PIL with the Supreme Court following the Tamil Nadu incident. The Commission has submitted its report to the Supreme Court. It makes for scary reading.

"Mentally ill persons are treated like caged animals." The inmates are dumped in the most unhygienic places, with an appalling toilet-patient ratio of 1:30 and no privacy and running water in the toilets, the report says.

It takes serious note of Murshidabad Mental Hospital, where members of the NHRC survey team fell ill while going round the wards. "Human excreta were found all over the place,

smeared on the floor and the walls. The wards were infested with lice, which had formed colonies on the walls along with termites," the report observes.

The toilet condition is abominable, with no privacy or running water facility. Worse, the patient-toilet ratio is abnormal, the report adds. It also pulls up the mental hospitals for not having treatment facilities and adequate medicines.

Suggesting that direct use of ECT should be banned and made a penal offence, the report says that physical restraint like the use of chains should be allowed only in extreme cases where patients are threats to their own or other inmates' safety.

But here too, any decision to apply physical restraint should be taken only by a medical board, comprising three experts — a psychiatrist, a social worker and a representative from an NGO.

The institutions should provide facilities for rehabilitation of patients. They should also have essential medicines released by NIMHANS in Bangalore, the report suggests.

A legal board should visit the institutions every month and acquaint the patients with their rights. The State authorities should be asked to submit a compliance report to central authorities every month, it says.

A tall order? Not if you are at the receiving end of it all.

HOUSES OF HORROR

- Shock therapy used without anaesthesia
- Unhygienic conditions with human excreta on the floors and lice on the walls
- No privacy and running water in the toilets with a 1:30 toilet-patient ratio
- No proper diet or medical care for patients
- No regular visits by doctors or health workers



GRAPHICS: ANIRBAN BOIRA

THE HINDUSTAN TIMES

7 MAR 2002

Rights abuse heat on Delhi

United News of India

WASHINGTON, March 5. — A US state department report has criticised India for having committed several human rights abuses last year, including death of suspects in police custody, fake encounters and excessive use of force by security agencies in Jammu and Kashmir and the North-east.

The report also slammed some of USA's key allies in its war against terrorism, including Pakistan and Uzbekistan, as human rights violators in 2001.

On India, the "Country Reports on Human Rights Practices," submitted to the US Congress yesterday, said though the government "generally respected" the human rights of its citizens, yet some serious problems remained "in many significant areas." Major human rights abuses in India, it said, included extra-judicial killings, including faked encounter killings, deaths of suspects in po-

lice custody and excessive use of force by security forces in combating active insurgencies.

It also cited torture and rape by police and other agents of the government, poor prison conditions, arbitrary arrests and incommunicado detentions in Jammu and Kashmir and the North-east as human rights violations. Continued detention of thousands arrested under special security legislation was considered as a violation as well.

On Pakistan, the report noted that although there were some improvements, the government's human rights record remained poor.

The Pakistani police committed numerous extra-judicial killings and were engaged in rape and abuse of citizens, the report said. Despite this, "no officer has been convicted and very few have been arrested," it said.

Prison conditions in Pakistan remained "extremely poor and life threatening, and police arbitrarily arrested and detained citizens"

THE STATESMAN

- 6 MAR 2002

Encroaching on tribal land

By Kuldip Nayar

In the name of 'development', Adivasis are being pushed out from land they have lived on for generations.

Human Rights 119-10 27/2

THE Bhopal gas leak disaster is fading from memory like numerous other tragedies. Very few remember that on the night of December 2, 1984, highly toxic gases leaked out for about three hours. Some 22,000 people were killed and more than half a million maimed or injured. The calamity came back with searing intensity when I saw a copy of an appeal by the Bhopal Gas Peedith Sangharsh Samiti addressed to the President, K.R. Narayanan. It was against giving the Padma Bhushan to Keshab Mahindra, who was chairman of Union Carbide India Limited at that time. The CBI arrested Mahindra along with Warren Anderson, then chairman of Union Carbide. How awardees are selected is so much in the domain of politics that it is no use discussing the subject. But Mr. Mahindra can help by returning the award. He should write to the President and explain the circumstances which made him unworthy of the award. True, he was not in Bhopal when the disaster struck. Yet, the fact of chairmanship makes him morally guilty. He must have found out by now how united are people in shock and grief. Not to respond to their sentiments will be either weakness or sheer arrogance.

Violation of human rights is evident in the two reports I have received. Both relate to the helplessness of Adivasis and the Government's tyranny. One is about their privations in Kerala and the other in Madhya Pradesh. Geographically, the States are distant. But how close they are when it comes to the treatment of the Adivasis, considered backward, not equal. The Constitution has given us all equal status. But some are more equal than the others. Driven to the periphery of existence, the Adivasis are trying to hold on to whatever little they have. But the state has its own priority: "development". In its name, the Adivasis are being pushed out from land they have lived on for generations. In heaping cruelties on them or acting illegally against the Adivasis, Kerala, the most

literate state in the country, is no better than Madhya Pradesh. And the society is as oblivious to their plight as it has been for decades, not even noticing that the Adivasis are prey to man's oppression, not nature's.

The real problem is land. Its transfer cannot be effected without the consent of the Adivasis. The Constitution protects their ownership. The state is committed to consult the community, legally described as gram sabha (the village assembly), before acquiring land for "a public purpose". Also, the people, affected directly or indirectly following the acquisition of land, have to be assured of a honourable place in terms of equality in the new environment.

The Kerala Study Group in Delhi has brought out the excesses committed against Kerala's Adivasis in July-August last year. That was the time when people in the districts of Wayanad, Palakkad and Kannur died and thousands faced hunger and even death. It was really this abysmal situation in the Adivasi belt which compelled the Government to admit starvation deaths. In most cases, the transfer of land has been allowed even when there is no document validating it. At some places, even the use of force to compel an Adivasi to sign on a blank document has been permitted.

To add to the woes of the Adivasi community, the officials indulge in large-scale embezzlement of funds meant for their development. The most recent case is that of gross misuse and misappropriation of the Rs. 230-crore Tribal Welfare Scheme, aided by Japan. Redress in cases of official and non-official harassment is denied to the Adivasis, as they are unable to cope with the mysteries of a multi-tiered bureaucratic apparatus.

The Kerala Government's lack of sensitivity towards the Adivasis is not restricted to its reluctance to restore alienated land. It has failed to adequately address the needs of the landless Adivasis. Fifty per cent of the land taken over by the Government under the Kerala Private Forest Act, 1972, was meant to be distributed to the Adivasis. These lands have been forcibly taken over by the non-Adivasis and the Government is trying to regularise the encroachment. Various departments and projects to rehabilitate

bonded Adivasis hold more than 40,000 acres of

land but now even the Government admits that corrupt and inefficient officers have acquired them. In addition, there are large tracts of land requisitioned by the Government from private persons whose holdings were in excess of the land ceiling. Thus in spite of availability of land for distribution among the landless Adivasis, the Government has failed to do so. The situation in Madhya Pradesh is worse. The State knows of no law and does not want to entertain any argument when it decides to take over the land of Adivasis. There is a case of Nagarnar where a steel plant is sought to be built. The authorities are aware of the legal necessity of getting prior approval of the Adivasis before acquiring the land for the plant. The first requirement was to consult the gram sabha. Accordingly, (1) formal notices for this purpose were sent around the end of May, 2001; (2) the consultation with the gram sabha of five villages was ordered to be held on June 11 and 13, 2001. The Land Acquisition Officer, through the tehsildar, dispatched one booklet each to the gram panchayats on June 7, 2001. The meetings were commanded as ordained: there was a large contingent of officials and po-

lice. The dazed people just asked for some time, say 15 days, to consider the proposal. It was summarily refused. All the four gram sabhas naturally could not agree with the proposal. But the rulers would not take 'no' for an answer. They said that consultation with gram sabha, the people's assembly, had to be construed as consent. The rulers could not take the chance of anything going wrong. The proceedings of the gram sabha were ordered to be destroyed and substituted by new proceedings. Accordingly, a set of new registers was placed. A revised version of the conclusion was incorporated therein to the effect that the gram sabhas had given their consent with substantial majority. Having cleared this hurdle, the rulers proceeded post haste with notification after notification under the Land Acquisition Act.

What is most ironical is that in a bid to cover up these crimes, the Divisional Commissioner in his inquiry attempted a somersault. He described the fabricated proceedings as administrative reports. The very foundation of the rulers' case about land acquisition with due process of law was knocked out by the premise that the proceedings of the gram sabhas were never written. The way the entire system representing the State has behaved, which in this case is on record and in the open, conclusively shows that the rot in the system is total.

There is not an iota of concern in the entire episode for the people, whose protection and advancement is our constitutional responsibility. As one moves up the ladder, the situation worsens.

The hallowed office of the commissioner was put to shame, as the opportunity to inquire into serious allegations of crime against the people and subversion of democracy was used for further distortions with no even a show of an honest attempt to uncover the misdeeds. And a fabricated report was transmitted, as it was by the Secretary, Panchayats, on behalf of the State Government.

27 FEB 2002

27 FEB 2002

Ill-treated Afghan refugees afraid to return home, says rights group

By Ela Dutt (11-13)

NEW YORK: Many Afghan refugees in Pakistan and Iran are mistreated in exile but are afraid to return to Afghanistan, the U.S.-based Human Rights Watch (HRW) has said.

Repatriation of more than 3.5 million refugees, who fled to Pakistan and Iran to escape the decades-long conflict in Afghanistan, is slated to begin this week.

The HRW says in its 45-page report that the decades-long Afghan refugee emergency did not end with the fall of the Taliban last year. There remain 3.5 million refugees in Pakistan and Iran, most of who arrived before the armed conflict late last year.

Although 140,000 Afghans went home from Pakistan and Iran in the past six weeks, 50,000 new refugees fled Afghanistan and came to Pakistan in the same time period, HRW says.

In its report 'Closed Door Policy: Afghan Refugees in Pakistan and Iran', it has called for ending harassment and violence against refugees in Iran and Pakistan and implementing any repatriation programme with extreme caution while conditions in Afghanistan remain unsafe.

"While many Afghan refugees want to go home, there are others who are terrified of returning at this time," said HRW refugee policy director Rachael Reilly. "Ethnically motivated attacks, lawlessness, and fighting between rival warlords remain rampant in some areas."

Refugees it interviewed in Pakistan, says the HRW report, described the human toll caused by Pakistani officials' treatment of the refugee population.

The report says: "With borders closed, most refugees had to resort to dangerous and unofficial routes into Pakistan. Refugees were beaten at unofficial checkpoints when they could not afford to pay extortionate bribes.

"At official crossing points, families were beaten back, or lan-

guished in squalor without food, water or latrines—hoping to be let in.

Once inside Pakistan, refugees were harassed and imprisoned because they lacked identity documents. They also endured beatings by the Pakistani police when queuing for food in camps."

Ms Reilly says: "Many Afghan refugees are in a no-win situation. They have endured violence in Afghanistan, and many fear going home. But they also live with harassment and violence in Pakistan and Iran."

The HRW said it interviewed many refugees, including members of various ethnic groups, women and girls, and they fear continuing human rights abuses inside Afghanistan.

The rights body called on donor governments to provide adequate funding to the Afghan interim authority's ministry for the return of refugees, and for the voluntary return of refugees under conditions of safety and with full respect for their human rights.

The January 2002 donor conference in Japan highlighted the need for humanitarian assistance to returning refugees, but the security of returnees cannot be guaranteed under current conditions.

A first step towards ensuring returnees' security would be the expansion of the mandate and presence of the International Security Force beyond Kabul, HRW says.

In addition, the governments of Pakistan and Iran as well as UNHCR must ensure that Afghan refugees have access to objective information about conditions inside Afghanistan before deciding whether or not to return, it adds.

Refugees should not be forced to return prematurely because of insecurity or lack of assistance in neighbouring countries, it said.

It also urged the governments of Pakistan and Iran to identify those refugees who continue to need protection, to provide them with documentation and a regularised

legal status, and to end ongoing abuses of the rights of refugees in both countries. (IANS)

CU mulls a rights course

Subhamoy Chatterjee
Kolkata, February 19

MA IN English. Or MA in Bengali, Philosophy, History or even Sanskrit and Pali. We are familiar with these courses offered by universities. But MA in human rights? Well, that's new.

Calcutta University is about to set an example. If everything goes on schedule, a two-year post-graduate international degree course in Human Rights will be on offer in the next academic session in July. It has the Syndicate's nod and the syllabus is ready. Only the approval of the Board of Studies is awaited.

To begin with, the course will be conducted under the Anthropology Department at Ballygunge Science College. Human rights is a social science related to anthropology. The course is

the brainchild of Buddhadeb Choudhuri, Ambedkar Professor of Anthropology.

"We are excited about the course which may be called MA in Human Rights and Peace. We are getting encouragement from rights experts and activists not only from within the country, but from abroad," Choudhuri told *Hindustan Times*.

M A Sabur of the Bangkok-based Asian Resource Foundation and Sushil Paykurel, member of the Nepalese Human Rights Commission, was involved in framing the syllabus.

Among those who have responded promptly to Choudhuri's request for support, either through funding or through appearances as guest lecturers, are Dr Basil Fernando, Chairman, Asian Human Rights Commission, and people

in the Asian Indigenous People's Pact in Thailand and the New York-based International Centre for Law in Development.

"Calcutta University will be the second university in Asia to start the course which is now taught only in Mahidul University in Bangkok. Ours of course will be a small department of just 10/15 students." Choudhuri admitted the fees would be rather high, compared to the university's standards, because the course would have to be self-financed. A small budgetary support for infrastructure has been promised by the university.

A third of the 800 marks will be for field studies and dissertations. Students will have to identify issues of empowerment and deprivation involving the weaker sections, tribals, women and children and look for solutions.

THE HINDUSTAN TIMES

THE HINDUSTAN TIMES

20 FEB 2002

Amnesty expresses concern about 13 LTTE child soldiers

By Christine Jayasinghe

COLOMBO: Human rights watchdog Amnesty International has expressed concern over the fate of 13 children, 16 years and under, who have allegedly been forcibly conscripted by the Tamil Tiger rebels in Sri Lanka.

"Amnesty International is concerned for the safety of the children who are thought to have been recruited as combatants by the armed political group, Liberation Tigers of Tamil Eelam (LTTE)," the organisation said in a statement issued on Friday.

Amnesty said it had given the details of the children's abduction from the embattled north and east in a letter to the LTTE earlier this month.

Thiyagarajah Suthaharan, 12, and his 13-year-old companions Selvaraji Suthahar and Vellaisamy John told their parents last December that they were going to

the playground in Sivapuram in Vavuniya district. But they did not return home.

Another child, a 15-year-old girl, Duncy Mary, was last seen as she returned from a tuition class near a bus stand in Tannamunai, near the eastern town of Batticaloa February 11.

Amnesty said it had, "also expressed concern at reports of the continuing recruitment of children over the last few months, since the declaration of unilateral cease-fires by both the LTTE and the government on December 24, 2001."

Both the rebels and the government are observing a truce while inching towards opening negotiations to end the LTTE's decade-long campaign for a separate state that has seen over 60,000 people being killed.

The Amnesty statement urged the public to write in protest to the

rebel's theoretician and spokesman, Anton Balasingham, and pro-LTTE groups based abroad.

The LTTE in May 1998 assured U.N. Special Representative for Children in Armed Conflict Olara Otunnu they would not recruit children under 17 years of age and deploy anyone under 18 years in combat. But earlier this month another rights group, the local University Teachers' for Human Rights accused the Tamil Tigers of stepping up forced conscription of child soldiers.

The group said the LTTE was coercing families to send at least one child to join them and had burnt homes of some who had failed to respond.

The LTTE has hit back at the charges saying it was not targeting youngsters but was instead recruiting adults for administrative and political work. (IANS)

THE TIMES OF INDIA

THE HINDUSTAN TIMES

16 FEB 2002

129-10

ADDRESSING A MALADY

THE NATIONAL HUMAN Rights Commission's directive to States and Union Territories to ensure that patients in asylums for the mentally ill were not kept in chains is a welcome initiative to root out the brutalising impact such practices have on residents. Working in tandem with the Supreme Court, which has already ordered a national survey of asylums, there is now hope that together a nuanced appreciation of the various intricacies surrounding care for the mentally ill would become available soon. Besides painfully highlighting the gross violation of basic human dignity that prevails in shelters for the mentally ill, the gruesome tragedy in Erwadi village in southern Tamil Nadu last August — where at least 26 residents in the asylum were charred to death — exposed the fatal risks inherent in such physical confinement. But beyond the merits of different therapeutic interventions, other far-reaching implications of the NHRC's investigation into the tragic episode must be in relation to evolving a universally humane mode of handling patients. Thus, weaning away asylums from this practice may constitute a small but significant first step in a long and arduous journey of bringing about an attitudinal transformation towards the mentally ill that would necessarily have to incorporate the psycho-social and medical dimensions.

While the Supreme Court's and the NHRC's periodic interventions into the functioning of mental health care units since the tragedy in Erwadi may at one level appear to follow what is by now a familiar recourse to the Judiciary for practically all our collective social failings, it cannot be denied that the protection of the law has emerged as the biggest source of hope for a vulnerable minority such as the disabled population. In particular, the spate of legislation which imparts an under-

lying human rights perspective to the discourse on disability that came to mark the 1990s and a few judicial rulings in the areas of non-discrimination and access to education and mobility have turned out to be potent weapons to counter the simultaneous presence of plain prejudice or benevolent indifference that were characteristic of the past. But the mentally ill have unfortunately not benefited from such progressive interventions primarily because the two laws that govern mental health — the Indian Lunacy Act of 1912 and the Mental Health Act of 1987 — regard mental illness essentially as belonging to the domain of clinical health.

Human Rights

With the main thrust of these laws being on the provision of shelter, welfare and services, the appropriateness of given therapeutic interventions — which varied from modern rational medicine to traditional faith healing — was hardly emphasised. The state of the public health care machinery being what it is, it is hardly surprising that critical aspects pertaining to the effective delivery of care fell outside serious scrutiny or regulation. There is reason to believe that with mental illness being accorded official recognition as an impairment in the Persons With Disabilities (PWD) (equal opportunity, protection of rights and full participation) Act of 1995 and also enumerated as such in the 2001 Population Census of India, the magnitude of the problem and its varied and deeper dimensions would receive greater appreciation. The challenge ahead is to apply the law on mental health read with the empowering provisions in the PWD Act, or better still amend the 1997 Act appropriately. The all-round ramifications of such an endeavour for the mental health arena may mitigate the pain and misery of Erwadi, at least marginally.

U.S. rights group is denied access to Sept 11 detainees

NEW YORK: U.S. immigration authorities are continuing to refuse disclosure of basic information about people detained after September 11, leading American rights body Human Rights Watch (HRW) has said.

Although the Immigration and Naturalisation Service (INS) permitted HRW and other groups to visit two New Jersey jails this week, agency officials refused to answer fundamental questions about the detainees and in one of the jails would not allow the rights body to see where the detainees were living. Press reports said several of the detainees are of South Asian origin.

"This (allowing the visits) is a welcome first step towards more openness about the treatment of these detainees. Unfortunately, during the visits it became obvious that the agency still wants to keep basic information about the detainees secret," said Allyson Collins, associate director of the U.S. programme, who visited the jails.

HRW visited two jails that reportedly hold a large percentage of the nation's September 11 detainees: the Hudson County Correctional Centre in Kearny and the Passaic County Jail in Paterson.

During the visits, INS refused to provide the number of detainees held at the facilities, the rights

group said.

At Hudson County jail, INS and jail officials gave a thorough tour of the modern facility, including an occupied housing unit.

The tour of the Passaic County Jail, however, was rushed and incomplete, and fewer questions were answered.

During a tour of the jail, officials



refused an HRW request to view an occupied housing unit, citing privacy and security concerns — although they had permitted it at the Hudson County jail.

"Detainees held at the Passaic County Jail have told Human Rights Watch that housing cells are cramped and that the detainees are confined with accused and convicted criminals," the rights group said. It was able to interview detainees

at both jails after the tours.

Beginning in October, HRW made a series of requests to INS to visit facilities holding September 11 detainees.

INS originally refused access to Hudson County and Passaic County jails, but reversed its decision last week.

HRW's requests to visit several other jails and immigration detention centres around the U.S. are still pending.

The New Jersey jail visits are part of an effort to examine the treatment of immigrants detained in relation to the September 11 attacks. Findings are to be released in a forthcoming report.

The rights body had said earlier that it requested permission to visit the facilities because it was concerned by reports of inappropriate treatment and infringement on detainees' rights.

HRW conducts jail and prison investigations around the world in a bid to ensure that the treatment of detainees is consistent with standards affirmed in international human rights treaties and internationally recognised standards for detention.

This largest U.S. rights group has made numerous investigations in the country, visiting many federal, state, and local facilities, and more than a dozen county jails holding INS detainees. (IANS)

THE TIMES OF INDIA

11 FEB 2002

BUSH CRITICISED; RED CROSS FOR POW STATUS

USA applies Geneva Convention to Taliban prisoners

ST-3
9/2
Human rights

The Times, London and Agencies

WASHINGTON/TOKYO, Feb. 8. — US President Mr George W. Bush yesterday decided to apply the Geneva Convention to Taliban fighters held by the USA but not to Al-Qaida members, a decision that will not change the captives' treatment but may help to protect US soldiers and to blunt foreign criticism.

The International Committee of the Red Cross said today that Taliban and Al-Qaida fighters should be considered prisoners of war. "Anybody captured in a context of an international conflict ... is covered by the Third Geneva Convention and therefore is presumed to be a prisoner of war unless a competent tribunal decides otherwise," ICRC said.

Britain today welcomed the step while Japan urged the USA to respect the prisoners' basic human rights.

Mr Bush's decision, criticised by some human rights groups, does not confer prisoner of war status on the Taliban detainees, which would have given them protections including the right to disclose only their name, rank and serial number under interrogation, a monthly stipend, access to musical instruments during their detention and to return home once the conflict is over.

The groups said the convention was designed to protect all combatants and the White House did not have the right to decide who deserved prisoner of war status.

The White House said for the captives to qualify as PoW under the Convention they would have to meet four conditions: be part of a military hierarchy, wear uniforms or other visible insignia, carry arms openly and conduct military operations in accordance with the "laws and customs" of war.

"The Taliban have not effectively distinguished themselves from the civilian population of Afghanistan," Fleischer said, adding their support for Al Qaida "terrorist" activities was inconsistent with the laws and customs of war.

The White House yesterday said as a practical matter the decision would have little effect on the daily treatment of the captives, 186 of whom are detained at the US military base at Guantanamo Bay, Cuba.

Despite harsh foreign criticism of their treatment it said the USA had treated the captives humanely and would continue to do so, giving them three meals a day, medical care and the opportunity to worship.

Foreign nations including close allies like Britain and Germany expressed strong misgivings about the Guantanamo Bay

captives after the Pentagon released a photograph showing some of them bound, blindfolded and on their knees.

Analysts said Mr Bush's decision may have been designed in part to protect the rights of US soldiers who might be captured in the military campaign in Afghanistan or elsewhere as Washington prosecutes its war on terrorism.

The decision appeared to be a victory for US secretary of state Gen Colin Powell, who argued the prisoners should be covered by the convention despite opposition from others, reportedly including defence secretary Gen Donald Rumsfeld.

North Korea blasts US: North Korea, described by US President Mr George W Bush as part of an "axis of evil", hit back today by branding the USA as the "empire of the devil".

Pyongyang has already condemned Mr Bush's remarks, made last week, as being tantamount to a declaration of war. The official KCNA news agency today said Mr Bush's proposed defence budget increase showed Washington wanted to flex its muscles, and was using arguments about threats from North Korea and others as a pretext.

It said the USA had the largest number of weapons and wanted more. "This proves the USA, "empire of (the) devil", is posing a grave threat to world peace and stability."

THE STATESMAN

9 FEB 2002

America's Gulag

Al Qaeda prisoners may not be the worst off

The pictures of shackled, gagged and blindfolded Al Qaeda prisoners being brought to Guantanamo Bay in Cuba have stirred controversy in Europe, West Asia, and civil rights groups in the US. European allies of the US, including EU, British and German officials have expressed concern at the treatment meted out to the prisoners. The measures may have been necessary while transporting the prisoners, as Taliban and Al Qaeda men taken prisoner in Pakistan had escaped after overwhelming their captors, while in Mazar-e-Sharif they staged a violent prison uprising which left more than 200 dead. The Guantanamo Bay prisoners, however, are even at this point kept confined in small cages, and may be up before military tribunals, which can pass death sentences and do not offer the legal protection available in civil courts. The assumption may be that hardened Al Qaeda men, privy to important information about the organisation and perhaps even to plans for further attacks on the scale of the WTC strike, are not going to respond to genteel questioning and part with the information they possess, unless rather strong inducements are applied.

What is truly shocking, however, is that the conditions in which the Al Qaeda men are held can compare rather favourably with that of many inmates in US state prisons. American prisons hold more than a million inmates, the highest held in any country other than Russia, which is the inheritor of the notorious Gulag system of the erstwhile USSR. In a large number of these prisons there is serious danger of being raped, brutalised or forced to join a drug gang. One in three black men have been in prison, and they incur a disproportionate number of death sentences. More than 20,000 prisoners held in "supermax" prisons are placed in solitary confinement in cells with no windows. If they should leave their cells for a shower or exercise, they are stripped for a visual search of their body cavities, then taken out handcuffed and shackled. America's draconian prison system looks like the flip side of a libertarian philosophy which allows citizens easy access to guns; the possession of the means to inflict lethal violence may be sought to be offset by stringent punishment in case of crime. But the system can easily institutionalise violence; for example, the widespread handing out of prison sentences in case of minor drug offences introduces a large population to the culture of the prison, which in turn is the most effective school for crime and violence. Before a Solzhenitsyn comes along to chronicle its abuses, the reform of prison practices looks urgently necessary in the world's richest democracy.

Tainted reputation

THE STATESMAN

- 4 FEB 2002

Rights group asks Oslo to protect Tamil civilians from LTTE

HO-10
2/2

India
Human
Rights

By Nirupama Subramanian

COLOMBO, FEB. 1. A Tamil human rights group has asked Norway, which is facilitating a peace process in Sri Lanka, to protect civilians in the north-east of the island by ensuring that the LTTE stopped political killings, extortion and the recruitment of child soldiers.

Detailing in a report instances of recruitment of children and abduction of adults for ransom by the LTTE and murders of those opposed to it over the last month, the University Teachers for Human Rights (UTHR) has accused the Government, Tamil political parties, and civil society of turning a blind eye to these incidents so as not to upset the peace process.

"In these circumstances, it falls to other actors concerned in the peace process to safeguard children's rights and create normal conditions on the political front as well. A huge responsibility falls on Norway that has been called upon to play a facilitating role," the UTHR said

in the report, which was released today. It added that the Special Representative of the U.N. Secretary-General for Children and Armed Conflict had a crucial role to play.

Formed in 1988 as a watchdog of Tamil human rights, the UTHR is a group of former Jaffna University teachers which has been vociferously critical of the LTTE. One of its members was killed by the LTTE, and the remaining left the peninsula when the LTTE took control of it in 1990.

But through its network of informants in the north, the group puts out periodic reports about civilian life under the LTTE in northern and eastern Sri Lanka.

"We need to put mechanisms in place to monitor not only violations of the truce between the state and the LTTE, but also the use of terror and violations against civilians by both sides," the UTHR points out in its latest report.

According to the report, three civilians, one of them a former LTTE member, have been killed since December 24, when both

the LTTE and the Government began observing a truce.

The report gives names of 10 children, all between the ages of 12 and 15, and a 28-year-old woman, who were "forcibly removed" from their homes in Kiran in Batticaloa and from near Mutur in Trincomalee.

Those who fled Kiran with their children later found out that their homes had been burnt down by the LTTE.

Terrified Tamil parents are getting their children married early in order to avoid their conscription by the LTTE, the report alleges, pointing at a sudden increase in the number of teenage mothers in parts of eastern Sri Lanka.

Extortion by the LTTE's so-called finance wing is on the rise. The report says that the number of persons being called and threatened or detained for extortion is "simply enormous".

A Government official in Vakkarai, north of Batticaloa, who was kidnapped last month for ransom, has still not been released. Another Government of-

ficial was called and warned for not making collections from his staff.

"Today, the Tamils in the north-east are being subject to the abduction of their children, political violence and both the Tamils and Muslims to systematic extortion and kidnapping for ransom. While the Sri Lankan forces are removing checkpoints and allowing the LTTE to move into areas under their control, the LTTE is imposing new barriers to monitor its own people," the report said. On Thursday, Kinniya, a predominantly Muslim town in Trincomalee, observed a general strike in protest against forcible "taxation" by the LTTE. Shops and offices were shut, and there was no public transport.

As Muslims have been particularly targeted for extortion, the leader of the Sri Lanka Muslim Congress, Rauff Hakeem, wrote an open letter to the LTTE leader, V. Prabhakaran, last month, asking him to restrain his cadres, but it seems to have been in vain.

THE HINDU

2002

MD-12
3/1/1
**'U.N. must discuss
rights abuses
with Karzai'**
Human Rights

NEW YORK, JAN. 30. The U.N. Security Council should raise the issue of justice for past human rights abuses in Afghanistan in its meeting with the Afghan interim head, Hamid Karzai on Wednesday, Human Rights Watch said.

"It is impossible to build a stable society when past crimes are ignored," said Kenneth Roth, Executive Director of Human Rights Watch. "We strongly urge the Security Council to work with Mr. Karzai to find a way of developing justice mechanisms, so that past abusers, Taliban or otherwise, are held accountable."

Human Rights Watch called on the Security Council to discuss with Mr. Karzai how the new mandate for the United Nations mission to Afghanistan, currently being debated, can best address the accountability and justice concerns.

THE HINDU

31 JAN 2002

US prisons worse than Cuba detention camp: rights groups

Reuters

SRB 3111
WASHINGTON, Jan. 30. — California Senator Ms Diane Feinstein saw the outdoor prison at Guantanamo Bay in Cuba where the USA is holding 158 Al Qaida and Taliban prisoners in small cages. Her reaction: many US prisons are a lot worse.

"I would rather be in Guantanamo Bay than in a state prison in Illinois," said Mr Doug Cassel, director of the Center for International Human Rights at Northwestern University.

"In the average state prison in USA, there is a very serious danger of either being raped or having to join a drug gang or pay protection to avoid being victimised or brutalised," he said.

More than 20,000 prisoners in USA held in "supermax" prisons are mentally ill but get little or no treatment. Their meals are slid through a slot in the metal door. They cannot see or talk to another human being. They cannot see out the window.

San Francisco airport alert

SAN FRANCISCO, Jan. 30. — The United Airline domestic terminal at San Francisco International Airport was evacuated for 90 minutes today after some explosive residue was discovered on a man's shoes, and the man went missing, an airport official said. Airport spokesman Mr Mike McCarron said flights were held at 30 gates as authorities vainly searched for the suspect. — AFP

They cannot make telephone calls or have direct contact with visitors.

When they do briefly leave their cell for showers or solitary exercise, they must strip, permit a visual search of their body cavities. Their legs are shackled, their arms cuffed and they are led by two guards, one of whom presses an electric stun gun against their bodies at all times.

THE STATESMAN

31 JAN 2002

Draconian moves

By Kuldip Nayar

Human Rights
H.O.S

A DIFFERENT kind of human rights movement is now on the go. A band of Gandhians was flagged off a few days ago from Rajghat on a march to Ayodhya. This 600-km yatra, to be covered in 20 days, will spread Bapu's message of love and communal harmony. The yatri and thousands of others will reach Ayodhya on January 30, the day Gandhi was assassinated. Communal harmony is a major human rights issue because it is connected to the right to life, right to equality before law. Can a small body of determined spirits fired by an unquenchable faith in their mission alter the course of history?

The Gandhians on the march have armed themselves with Bapu's immortal words: recall the face of the poorest and weakest man whom you may have seen, and ask yourself if the step you contemplate is going to be of any use to him. Then you will find your doubts melting away.

I wish the ultra groups, which believe they can solve the problem by killing people, would ponder over the Mahatma's words. They are wrong in their approach; so is the state in arming itself with more and more draconian laws. In a way, both are terrorists. Both are making society increasingly unliveable. Both have only force as an instrument to solve problems. They do not seem to realise that both terrorism and state terrorism have become irrelevant. I strongly believe that wrong means will not lead to right results.

The Prevention of Terrorism Ordinance (POTO) is evidence. Despite widespread protests, it has been re-promulgated. The Government has, in fact, cheated Parliament by not bringing the relevant Bill before it. It was the use of wrong methods. The Supreme Court has upbraided some State Governments for bypassing the Legislature. New Delhi has itself criticised them for doing so. But if the Centre indulges in similar tactics, where do people go to escape the Government's tyranny? I am amazed that the sensitive President of India okayed the second ordinance so readily. The Government also gave certain promises to the press. It has gone back on them. Clause 3 (8) regarding the disclosure of

POTO is a blot on the democratic escutcheon...
Experience worldwide has shown that state terrorism is counter-productive.

information in possession has been deleted. But the harsher Clause 14 stays. It deals with the obligation of all citizens of India to furnish information. My case is not that journalists are a class above the citizens. But the journalistic profession has certain demands and one of them is the protection of source. A police official should have no power to ask a journalist for information and detain him if he refuses to divulge it. Confidentiality of the source is part of a reporter's ethos. How can he breach it?

POTO is a blot on the democratic escutcheon. When the National Human Rights Commission re-

opposed POTO, the

HUMAN RIGHTS DIARY

matter should have ended there. It is the highest body we have in the country to protect the rights of citizens and it is presided over by one of the ablest former Chief Justices of India. Even before the Ordinance was promulgated for the second time, the Commission used harsh words against it. In a unanimous resolution, it conveyed to the Government: any law for combating terrorism should be consistent with the Constitution, the relevant international instruments and treaties, and should respect the principles of necessity and proportionality.

The Commission chairperson, J.S. Verma, has elucidated recently the point in a lecture: "Terrorism results in gross violation of human rights and must, no doubt, be dealt with a heavy hand. However, the methods to counter terrorism must not violate the human rights of innocents or else the innocents would be exposed to double jeopardy and suffer a twin violation of their human rights." Experience worldwide has shown that state terrorism to combat terrorism is counter-productive. International opinion is also shocked because India is considered a liberal democratic country. As an MP, I have received many letters from abroad, requesting me to stop the measure. How can I when the Government does not have the courage to bring it before Parliament? Sensing de-

feat in the Rajya Sabha — the BJP had an unofficial count — the Government decided on another Ordinance after the session.

However, the observation by a human rights activist from Denmark is pertinent. It says: "One of our concerns with this Bill is that it is incompatible with international human rights treaties, particularly the International Covenant on Civil and Political Rights (ICCPR), to which India is a party. Also, India's own experience with the application of the Terrorist and Disruptive Activities (Prevention) Act (TADA) is a case where widespread abuse occurred in its application. TADA in effect surrendered rights assured under the ICCPR by the *de facto* establishment of a continuing state of emergency."

Someone, through a personal letter to *The Hindu*, has brought to my notice one sad example of violation of human rights. Raj Shrivastava was a mental patient and was under medical treatment throughout his life. In 1990, he was found to be HIV positive. His parents married him off to Kalpana suppressing his HIV status and mental illness. Raj used to beat and abuse his wife for not bringing dowry and torture her both physically and mentally in different ways. And so did Kalpana's mother-in-law. In June 1998, Kalpana became pregnant. "I will sit on your stomach and when the child will die inside your stomach and you will cry in pain then I will be very happy," Raj threatened her.

Kalpana thought of committing suicide. In September, Raj forced her to go to her parents' house. In April 1999, she had a son and came back to her husband. And the same story of physical and mental torture was repeated. In May 2001, Raj died of AIDS. Soon after, Kalpana's in-laws threw her and the boy out of the house. They now have plans to migrate to the U.S. leaving both Kalpana and her son without any support. At the end of her story, Kalpana says: "An attempt to

murder an innocent girl (Kalpana) was made by marrying her to an HIV-positive mental case." She asks: "Who gave them the right to destroy the life of an innocent girl?"

The story of Pratap C. Dutta is equally pathetic, though in a different way. He is an old journalist, abandoned by almost all to die in a nondescript room. Years ago, his byline appeared in most leading newspapers. He had been a witness to our freedom struggle. In some ways he participated in it. Although gentle and affable, he minced no words in his writings. But he has been abandoned now — by friends and others. He needs sympathy and help. Both are not forthcoming. I wrote to the Prime Minister, Atal Behari Vajpayee, for assistance several months ago. But there was not even an acknowledgement to the letter. The Delhi Chief Minister, Sheila Dixit, has proved no better. She too did not reply. They are busy people, lost in politics. Still, ageing and ailing journalists and artists should be helped. Maybe, there should be a fund for their care. The corporate sector, instead of sponsoring fashion shows and beauty pageants, can create a fund.

Reports generally accumulate dust. But the one prepared by the Commonwealth Human Rights Initiative (CHRI) on Human Rights and Poverty Eradication should not. It mirrors the conditions — and the people's helplessness — prevailing in the Commonwealth countries. But what makes it important is the admission it makes that the rich countries in the Commonwealth lack sensitivity towards the poor ones.

It is a matter of shame for the association, member-governments, the commercial sector and civil society actors that it continues to rely on rhetoric when the social and economic conditions of millions in the Commonwealth are in fact worsening in many ways. Such pervasive poverty mocks at the pretensions of the Commonwealth to solidarity, social justice and equity, says the report.

True, many consciences must have been irked at many places. But this alone will not do. A plan of action is required. The report lacks that. Some time-bound concrete steps are required and the CHRI should supervise them.

THE HINDU

26 JAN 2002

GUANTANAMO / GLOBAL CONCERN OVER PRISONERS RISES

#D-12
25/1

U.S. suspends transfer of detenus

human rights

NEW YORK, JAN. 24. The transfer of prisoners from Afghanistan to the American base at Guantanamo Bay, Cuba, was suspended on Wednesday as international concern over the treatment of detainees increased.

The Pentagon denied that the decision was linked to complaints over the treatment of the prisoners. It said it was simply expanding its facilities to accommodate more Taliban and Al-Qaeda fighters. Military sources said the pause would not last for long. There are currently 158 detainees at the base, which until Wednesday had room for only 160. About 270 Taliban and Al-Qaeda fighters are currently detained in Afghanistan.

"We want to maintain humane conditions and a level of security to keep the detainees safe and the people protecting them safe," said a Pentagon spokesman. But there was confusion when a U.S. Southern Command spokesman indicated that the base had enough cells. He said the pause was to improve "inter-agency co-ordination".

Reflecting the irritation and bafflement of senior American officials at criticism of the prisoners' treatment, Robert Mueller, the FBI director, emphasised during a brief visit to Afghanistan that vital information was being gleaned from the men.

"Information we have picked up since the war has prevented additional attacks around the world," he said.

At Dulles International Airport near Washington on Wednesday, there was intense se-



ARRESTING SCENE: An Afghan detainee is guided by U.S. Army military police at Camp X-Ray, at the U.S. naval base in Guantanamo Bay, Cuba, on Wednesday. — AP

curity for the arrival of John Walker Lindh (20), the Californian accused of fighting

alongside the Taliban. He will be charged with conspiring with terrorists to kill fellow Americans. If convicted, he could face life imprisonment.

Meanwhile, the U.S. said on Wednesday night that it was reviewing its treatment of Taliban and Al-Qaeda detainees being at Camp X-Ray.

Military sources said the International Committee of the Red Cross had given the makeshift camp a "clean bill of health", but the wave of criticism had forced them to look at ways of presenting a more humane image.

Inmates are being held outside in metal cages to allow close observation. The camp authorities are to paint a green arrow in each cage pointing towards Mecca so that the captured fighters could face the right direction while praying.

Michael Lehnert, commander of the Joint Task Force at Guantanamo Bay, indicated that he might change the procedures for blacking out the goggles of those making the 12,800-km flight from Afghanistan to Cuba.

In Washington, the President, George W. Bush, brushed aside the international outcry over treatment of the detainees, and told Congressmen that they "should be proud" of the U.S. treatment of terrorist suspects.

The White House spokesman, Ari Fleischer, cast the detainees as suicidal fanatics who would "engage in murder once again" if set free. — ©Telegraph Group Limited, London, 2002

THE HINDU

25 JAN 2002

U.S. violating norms: Red Cross

WASHINGTON, JAN. 22. The Red Cross accused the United States on Monday of violating the Geneva Convention by releasing photographs of Al-Qaeda and Taliban prisoners at Camp X-Ray in Guantanamo Bay, Cuba.

Darcy Christen, a spokesman for the International Committee of the Red Cross, said the convention outlawed the exposing of captives "to public curiosity".

Responding to the wave of criticism in Europe over treatment of the prisoners, the Pentagon said a Muslim cleric would be allowed to visit them. Red Cross officials are at the camp and will spend at least an hour with each of the 144 prisoners.

The pictures, which caused outrage among British politicians and human rights groups when they appeared in newspapers over the weekend, showed the captives in orange jump suits, kneeling down, with their arms shackled and wearing blacked-out goggles and ear muffs.

But the Red Cross refused to make any comment about the actual treatment of the prisoners. There was intense diplomatic ac-



HIGH-HANDEDNESS?: The U.S. Army Military Police escort a detainee to his cell in Camp X-Ray at Naval Base Guantanamo Bay, Cuba, in this handout photo from the Department of Defence made available on Jan. 11. — AP

tivity between the White House and Downing Street over the issue as the two Governments sought to present a united front.

Pentagon officials said the pictures were released on the grounds of openness and only showed prisoners as they arrived. "We wanted to display that we have nothing to hide," said one. "But now it seems we are damned if we show what's happening and

White House sources said they were published out of context and that remarks by Donald Rumsfeld, the U.S. Defence Secretary, that he did not have "even the slightest concern" that mistreatment might occur had been misinterpreted. There was also a recognition in Washington that the Bush administration had possibly underestimated the cultural differences between America and Europe over the handling of prisoners. Amnesty International argues that under the Geneva Convention, the inmates are entitled to PoW status until a competent tribunal has determined otherwise. Javier Solana, the E.U. foreign policy chief, said: "The Geneva Convention should apply to all people arrested in such circumstances."

When told that the treatment of the prisoners had been characterised by one British newspaper as "torture", a U.S. Marine Corps spokesman, replied: "I don't characterise it as torture. I characterise it as appropriate security procedures." — ©Telegraph Group Limited, London, 2002

Red Cross team to interview each prisoner

Miami, January 19

INTERNATIONAL RED Cross monitors hope to interview each Taliban and al-Qaida prisoner sent from Afghanistan to the US Navy base in Guantanamo Bay, Cuba, to ensure they are treated humanely, an agency official has said.

A four-member team from the International Committee of the Red Cross arrived at the isolated base on the eastern tip of Cuba late on Thursday to inspect the prison camp and conduct intensive interviews expected to last into next week.

Human rights groups accused Washington of treating the prisoners inhumanely after they were brought shackled and blindfolded from Afghanistan, aboard military transport planes.

The first detainees landed a week ago, and with the arrival of a fourth group on Thursday

there were 110 prisoners at the camp by Friday, when the ICRC team started work.

"The programme will last for as long as there are people detained," Kim Gordon-Bates, an ICRC spokesman in Washington, said. "As long as there are people detained we will do our jobs."

The prisoners were captured during the US-led war in Afghanistan that ousted the Taliban rulers accused of protecting Osama bin Laden and the al-Qaida network.

The prisoners are being locked in cage-like cells (2-metre by 2.6-metre), with roofs and floors but open chain-link walls, until permanent holding facilities are completed at the camp.

The United States has denied the detainees prisoner-of-war status, which would grant them certain rights under the Geneva Convention. But Defence Secretary Donald Rumsfeld said they

were being treated humanely and held "in an environment that is a lot more hospitable than the environments we found them in."

Both the ICRC and United Nations human rights chief Mary Robinson have said they consider the captives to be prisoners of war.

The Red Cross team will inspect the cells, meet with the camp commander and assess the meals and medical care.

"We'll be looking at the food, the calorie content, the quality, the cultural conditions," Gordon-Bates said. "We will be looking at everything."

"We have to talk individually with each detainee, if of course the person wishes," he added.

The interviews will take about an hour each, longer if there are translation problems. With 110 prisoners at the camp, the current visit will last "well into next

week," and other Red Cross teams will visit the camp as needed, he said.

Gordon-Bates said no restrictions had been placed on the Red Cross team, other than routine security precautions.

Mail delivery

The team will also offer to deliver mail and messages for prisoners who want to communicate with close relatives, Gordon-Bates said.

A spokesman for the US military's Southern Command in Miami, which runs the operation, said the captives are allowed to write letters, presumably screened for security reasons. They are given paper and pencils but must return the pencils when they finish writing "to keep the pencils from being used as weapons," said Capt Tom Crosson, a Southern Command spokesman.

US officials consider the prisoners dangerous and possibly suicidal, and said some had made clear after reaching Guantanamo that they still "want to hurt and kill Americans."

The ICRC will keep its findings confidential but report it to US authorities. A team of British officials also arrived at the prison camp late on Thursday to visit three detainees who claim British citizenship.

Prime Minister Tony Blair's official spokesman said the delegation would "help the process of identification, report on the welfare of the British detainees and help US authorities with their legal inquiries." Neither US nor British officials have released the names of the British prisoners or said where they came from. The Australian Government has confirmed that an Australian is among the prisoners.

Reuters

THE HINDUSTAN TIMES

20 JAN 2002